

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW REYNOLDS,)	CIVIL ACTION
Plaintiff;)	
)	
vs.)	No.: 5:21-cv-01208
)	
WILLERT MFG. CO., LLC,)	ORAL ARGUMENT REQUESTED
<u>Defendant.</u>)	

APPENDIX AND EXHIBITS

Exhibit 1	Complaint
Exhibit 2	Requests for Admission
Exhibit 3	Affidavit of Matthew Reynolds
Exhibit 4	Department of Health Correspondence
Exhibit 5	Patient Identification Card
Exhibit 6	Offer Letter
Exhibit 7	*Reserved*
Exhibit 8	Termination Letter
Exhibit 9	Drug Screen Results Letter
Exhibit 10	Toxicology Expert Report
Exhibit 11 ¹	Engineering Expert Report
Exhibit 12	Jack Bonsky Deposition
Exhibit 13	Tammy Gillette Deposition

¹ Exhibits 1 - 11 are located on ECF 27-2.

Exhibit 12

JACK BONSKY

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -
MATTHEW REYNOLDS, : NO.: 5:21-cv-01208
 :
Plaintiff, :
 :
v. :
 :
WILLERT MFG. CO., LLC, :
 :
Defendant. :
-

- - -
Wednesday, September 1, 2021
- - -

Oral deposition of JACK BONSKY, held
via ZOOM VIDEOCONFERENCE, commencing at 1:12
p.m., on the above date, before Masheka C.
Pettiford, a Professional Shorthand Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania.

- - -
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BISNOW & JOSEPH
COURT REPORTING

JACK BONSKY

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1 **A P P E A R A N C E S :**

2

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JACK BONSKY

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I N D E X
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Testimony of: JACK BONSKY

By Mr. Auerbach6

By Ms. Ficaro.87

- - -
E X H I B I T S
- - -

EXHIBIT
NO.

DESCRIPTION

PAGE
NO.

(No exhibits were marked.)

JACK BONSKY

Page 4

1 DEPOSITION SUPPORT INDEX

2

3 DIRECTION TO WITNESS NOT TO ANSWER:

4 Page Line Page Line

5 22 15-18 46 1-3

6 34 12-14

7 34 20-22

8 45 7-12

9 45 17-18

10 REQUEST FOR PRODUCTION OF DOCUMENTS:

11 Page Line

12 (None)

13

14 STIPULATIONS:

15 Page Line

16 5 2-11

17

18 QUESTION MARKED:

19 Page Line

20 22 13-14

21 45 23-24

22

23

24

JACK BONSKY

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1

- - -

2

MR. AUERBACH: There are four

3

stipulations. Number one, the witness will have

4

the opportunity to read the deposition, number

5

two, the witness will have the opportunity to

6

make any corrections on an errata sheet, three,

7

the witness will sign the deposition correct or

8

not, verifying its accuracy, four, all

9

objections except to the form of the question

10

are reserved and are not waived by not objecting

11

during this deposition.

12

Our reporter, would you swear in

13

the witness.

14

- - -

15

JACK BONSKY, after having been

16

duly sworn, was examined and testified as

17

follows:

18

- - -

19

EXAMINATION

20

- - -

21

BY MR. AUERBACH:

22

Q. Mr. Bonsky, good morning again.

23

A. Hello.

24

Q. My name is Steve Auerbach. I

JACK BONSKY

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1 represent Matthew Reynolds in a lawsuit that he
2 filed against Willert. We are here today to
3 take your deposition in connection with this
4 lawsuit.

5 Do you understand?

6 **A. Yes.**

7 Q. You are here today as a fact
8 witness and not as a defendant. Today is going
9 to be a question-and-answer session designed to
10 obtain information that you may or may not know.
11 We only care about that of what it is that you
12 actually know about Mr. Reynolds' allegations,
13 and we don't want you to guess. If you feel
14 like you can approximate or estimate an answer
15 such as a date or number, feel free to do so,
16 but if it's going to be a complete guess or
17 speculation, just let me know and we can move
18 on.

19 Mr. Bonsky, do you understand the
20 difference between an educated guess and
21 complete speculation?

22 **A. Yes.**

23 Q. Do you understand that even
24 though we are not in front of a judge and jury

JACK BONSKY

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1 at the moment this proceeding needs to be
2 treated just as if we were?

3 **A. Yes.**

4 Q. At times I mumble and ask clunky
5 questions. Unless you tell me otherwise, I will
6 assume that you understood all of my questions.

7 Do you understand that it's your
8 responsibility to tell me you don't understand
9 anything I say?

10 **A. Yes.**

11 Q. And if that happens, just let me
12 know, and I'll do my best to restate it.

13 **A. Okay.**

14 Q. I'll also assume that you've
15 heard all of my questions in their entirety. If
16 we have any internet or phone issues, please let
17 me know so that the most recent question and
18 response will be read back. At times, people
19 who take the depositions, they act like
20 politicians and they can take a thousand words
21 to answer a yes or no question. I lean in, and
22 I would call that a question dodge.

23 May I ask your cooperation in not
24 question dodging?

JACK BONSKY

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1 **A. Yes.**

2 Q. And should that ever happen for
3 whatever reason, I'm just going to remind you of
4 that agreement.

5 Mr. Bonsky, is there any reason
6 you wouldn't be able to give your best testimony
7 today?

8 **A. No.**

9 Q. And you and I are in different
10 locations.

11 May I ask where you are now?

12 **A. I'm in Douglassville, in the**
13 **plant.**

14 Q. You're at Willert?

15 **A. Yes.**

16 Q. Is there anyone else in the room
17 with you?

18 **A. No.**

19 Q. Is there anyone else within
20 earshot of you?

21 **A. No.**

22 Q. And are you in the chemistry lab
23 or are you in your office?

24 **A. This is my office.**

JACK BONSKY

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1 Q. And may I ask what documents are
2 in front of you?

3 A. **Work. Just work documents.**

4 Q. Anything relating to this
5 litigation?

6 A. **No.**

7 Q. Anything with Matthew Reynolds
8 name on it?

9 A. **No.**

10 Q. Mr. Bonsky, have you ever been
11 deposed before?

12 A. **Yes.**

13 Q. In connection with what?

14 A. **Lawsuit that I brought.**

15 Q. And how many times were you
16 deposed in that matter?

17 A. **Once.**

18 Q. And how long ago was that?

19 A. **I was 18 or 19. I'm 56 now.**

20 Q. Wonderful. In broad strokes,
21 what was the nature of that action?

22 A. **Medical malpractice.**

23 Q. Is that the only time in which
24 you remember being deposed?

JACK BONSKY

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1 **A. Yes.**

2 Q. Whatever happened with that
3 medical malpractice action?

4 **A. We settled out of court.**

5 Q. Have you ever served in the
6 military?

7 **A. No.**

8 Q. Have you ever been arrested?

9 **A. No.**

10 Q. Have you ever been charged with a
11 crime?

12 **A. No.**

13 Q. Okay. And to make sure today
14 goes smoothly, I'm going to give you some
15 additional ground rules. You're doing great so
16 far, but it's important that we don't speak over
17 each other. Please let me finish stating the
18 question before you answer it. Unless there's a
19 question dodge, I'll allow you to finish your
20 question before I pose another one. Even though
21 I like -- I'll likely know what you meant if you
22 shrugged your shoulders or nodded your head
23 after I've asked the question, I ask that you
24 use actual words to answer these questions. If

JACK BONSKY

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1 a response calls for a yes, please answer with a
2 yes and not with an uh-huh.

3 Do you agree to that?

4 **A. Yes.**

5 Q. Also for the benefit of the court
6 reporter, may I ask you to keep your voice up.

7 **A. Please restate that.**

8 Q. Sure. For the benefit of the
9 court reporter, can I ask you to keep your voice
10 up.

11 **A. Keep my what now?**

12 Q. Voice up.

13 **A. Oh, yes. Okay. I'll do that.**

14 Q. Okay. Great. And we discussed
15 this off the record, but if you need to take a
16 break at any point, let me know. If you need to
17 get up, stretch your legs, get a cup of coffee,
18 use the restroom, that's fine. We can do that.
19 We'll finish the current line of questioning
20 then take a break. I would also ask that during
21 the break you not speak with Eileen at any
22 point.

23 Do you agree to that?

24 **A. I agree.**

JACK BONSKY

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1 **MS. FICARO:** I just object to
2 that there. I don't believe that we are -- I
3 think that should be limited to about the
4 subject matter of the deposition.

5 **BY MR. AUERBACH:**

6 Q. Mr. Bonsky, do you agree to not
7 text -- do you have Eileen's cell phone number?

8 A. **I think I do.**

9 Q. I'm not asking for what the
10 number is. I'm just asking if you have it. May
11 I -- don't tell me anything that was discussed
12 between you and Eileen, but how have you been
13 communicating? Through phone, e-mail?

14 A. **Both.**

15 Q. Okay. And I'm going to ask that
16 during this litigation your questions not be --
17 your responses not be prompted by Eileen.

18 Do you understand that?

19 A. **Yes.**

20 Q. And that to the extent you need
21 to speak with Eileen, please let me know.

22 Now, from time to time, Eileen
23 will object to some of my questions, as she just
24 did. And if she does, please let her place the

JACK BONSKY

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1 objection on the record. You'll then go ahead
2 and answer the question after we resolve the
3 objection. And, again, please don't interpret
4 any of my questions as me asking for information
5 that was shared between you and your attorney.
6 That's protected by attorney/client privilege,
7 so I'm not going to be seeking that information.

8 Have you had the opportunity to
9 speak with Eileen prior to today's deposition?

10 **A. Yes.**

11 Q. Do you need any more time to
12 speak with her before we begin?

13 **A. No.**

14 Q. Putting aside counsel for a
15 second, have you spoken with anyone else about
16 today's deposition?

17 **A. Yes.**

18 Q. With whom have you spoken?

19 **A. I've let my staff know that I was**
20 **going to be in a deposition this afternoon so**
21 **they would leave me alone.**

22 Q. And that would include who?

23 **A. Dave Furno, Joe Woods, Debbie**
24 **Kulp, Cliff Heller and Rick Hansen.**

JACK BONSKY

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1 Q. Did you say that this was a
2 deposition with Matthew Reynolds or you just
3 used the word deposition?

4 A. **Used the word deposition.**

5 Q. And these people that you
6 identified, what did you tell them about today's
7 deposition?

8 A. **Nothing specific. I'm just being**
9 **deposed.**

10 Q. And approximately how long would
11 you say -- did you say that you spent talking to
12 these people?

13 A. **The meeting was about an hour.**
14 **The conversation regarding this was minutes,**
15 **tops.**

16 Q. And that happened today?

17 A. **Yes.**

18 Q. And you said it took minutes
19 tops.

20 Did you discuss the substance of
21 Mr. Reynolds' allegations or --

22 A. **No.**

23 Q. -- the substance of the lawsuit
24 at all?

JACK BONSKY

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1 **A. No.**

2 **Q.**Have these people that you
3 identified ever shared their feelings about
4 Mr. Reynolds or his allegations?

5 **MS. FICARO: Objection. You can**
6 **answer it if you are able to.**

7 **THE WITNESS: They have expressed**
8 **their feelings about Mr. Reynolds. Nobody has**
9 **expressed anything with respect to this**
10 **litigation.**

11 **BY MR. AUERBACH:**

12 **Q.**When you say they expressed their
13 feelings about Mr. Reynolds, who are you
14 referring to?

15 **A. Many people.**

16 **Q.**Okay. Who is the first one who
17 comes to mind?

18 **A. His subordinate, John Kulp.**

19 **Q.**John -- would you spell the last
20 name.

21 **A. K-U-L-P.**

22 **Q.**And what did Mr. Kulp share with
23 you about Mr. Reynolds?

24 **A. I asked Mr. Kulp and another**

JACK BONSKY

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1 gentleman, Randy Trout, T-R-O-U-T, what they
2 thought about Mr. Reynolds' performance while he
3 was working with them.

4 Q. Was Mr. Trout also a subordinate
5 of Mr. Reynolds?

6 A. Yes.

7 Q. And what were their job titles?

8 A. Maintenance mechanic, both of
9 them.

10 Q. Are both of these individuals are
11 still employed with Willert?

12 A. Yes.

13 Q. Were they -- did they start
14 working for Willert before you started working
15 there?

16 A. Yes.

17 Q. And what did they tell you about
18 Mr. Reynolds' performance?

19 A. They weren't pleased with his
20 performance. Their -- the major complaint was
21 -- he said they never knew where he was, and he
22 would work different hours. He'd come in late,
23 and he just never communicated with his team and
24 they didn't like that.

JACK BONSKY

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1 Q. When did you have this
2 conversation with Mr. Kulp and Mr. Trout?

3 A. While Matt was working here. I
4 don't recall the date.

5 Q. So between October and November
6 2020?

7 A. Yes.

8 MS. FICARO: Objection to form,
9 just in terms of the dates.

10 BY MR. AUERBACH:

11 Q. Did you have more than one
12 conversation with Mr. Kulp and Mr. Trout about
13 Mr. Reynolds' performance?

14 A. No.

15 Q. Other than Mr. Kulp and
16 Mr. Trout, who else did you discuss about
17 Mr. Reynolds?

18 A. One would be Joe Woods.

19 Q. And who was Joe Woods?

20 A. Production manager.

21 Q. Is Mr. Woods still employed with
22 Willert?

23 A. Yes.

24 Q. And what was shared with you

JACK BONSKY

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1 about Mr. Reynolds by Mr. Woods?

2 A. Specifics I don't recall, but
3 it's just the normal course of business for the
4 production manager, the plant manager to bring
5 up the name of the maintenance manager. I'm
6 sure we did.

7 Q. And this would have only been
8 when Mr. Reynolds was working for Willert?

9 A. And I notified Joe of the
10 termination maybe afterward.

11 Q. What did you tell Joe about the
12 termination?

13 A. Just that Matt was terminated.

14 Q. Did he share his feelings about
15 Matt's termination?

16 A. I don't remember.

17 Q. Since Mr. Reynolds was
18 terminated, have you had any other conversations
19 with Mr. Woods about Mr. Reynolds?

20 A. Yes.

21 Q. What other conversations?

22 A. We talked about the visit that
23 Matt had to the plant with counsel. Joe hosted
24 the visit. I suggested he do it, then I let Joe

JACK BONSKY

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1 **know what was going on, then counsel prepped**
2 **him.**

3 Q. Other than Mr. Kulp, Trout and
4 Woods, have you discussed Mr. Reynolds with
5 anyone else?

6 A. **Yes.**

7 Q. Who?

8 A. **Bryan Willert.**

9 Q. Mr. Willert is the owner of
10 Willert?

11 A. **I believe so.**

12 Q. Approximately how many
13 conversations did you have with Mr. Willert
14 about Mr. Reynolds?

15 A. **Oh, many. Dozens.**

16 Q. Okay. When was the most recent?

17 A. **About Mr. Reynolds, I don't**
18 **remember.**

19 Q. Was it after he was terminated?

20 A. **Oh, yeah. We talked about it**
21 **after the termination, yes.**

22 Q. Other than Mr. Kulp, Trout, Woods
23 and Willert, have you discussed Mr. Reynolds
24 with anyone else?

JACK BONSKY

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1 **A. Yes.**

2 Q. Who?

3 **A. Tammy Gillette.**

4 Q. Ms. Gillette is the HR rep?

5 **A. Yes.**

6 Q. And she's still employed with
7 Willert?

8 **A. Yes.**

9 Q. When was the most recent
10 conversation with Ms. Gillette about Mr.
11 Reynolds?

12 **A. Many, many weeks. Maybe several**
13 **months back.**

14 Q. Any other individuals we haven't
15 discussed yet?

16 **A. Yes.**

17 Q. Who?

18 **A. Dave Furno.**

19 Q. What?

20 **A. Dave Furno, F-U-R-N-O.**

21 Q. Who is Mr. Furno?

22 **A. He is our quality and safety**
23 **manager.**

24 Q. And what did you discuss with

JACK BONSKY

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1 Mr. Furno?

2 A. Many, many things. Mr. Furno was
3 the coordinator of the drug test. We talked
4 about that.

5 Q. Anything else you discussed with
6 Mr. Furno about Mr. Reynolds?

7 A. Just the day-to-day conversation
8 that would happen. We all worked together. I
9 can't think of a specific anything.

10 Q. Did Mr. Furno have any opinion of
11 that or share with you his opinion about
12 Mr. Reynolds or his allegations?

13 A. He didn't share anything with me.

14 Q. Any other individuals we haven't
15 listed?

16 A. Yes.

17 Q. Who?

18 A. Ed Kennet.

19 Q. Ed Kennet or Kenneth?

20 A. Kennet. I apologize.

21 **K-E-N-N-E-T.**

22 Q. Who is Mr. Kennet?

23 A. He is our controller.

24 Q. And what was the nature of the

JACK BONSKY

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1 conversation with Mr. Kennet about Mr. Reynolds?

2 A. He was the witness for the
3 termination, which --

4 Q. Anyone else?

5 A. Nobody comes to mind, but there's
6 dozens and dozens of people here I've probably
7 talked to in some way, shape or form.

8 Q. And, again, I don't want to know
9 anything that may have been said between you and
10 Eileen, but did you speak with Eileen in
11 anticipation of today's deposition?

12 A. Yes.

13 Q. *For approximately how long did
14 you guys speak?

15 MS. FICARO: Objection. I would
16 just instruct him not to answer that question or
17 anything regarding the contents of our
18 conversation.

19 MR. AUERBACH: Well, I'm not
20 asking the contents. I'm asking how long he
21 spoke.

22 MS. FICARO: I think arguably
23 that's crossing the line here.

24 MR. AUERBACH: So I can ask about

JACK BONSKY

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1 an insertion of privilege. I can't ask any
2 privileged information. I can ask how long he
3 spoke with you.

4 MS. FICARO: I think anything
5 regarding, you know, our meeting or discussion
6 is off limits.

7 MR. AUERBACH: Court reporter,
8 would you mark this for me.

9 BY MR. AUERBACH:

10 Q. Mr. Bonsky, have you done
11 anything else to prepare for today's deposition?

12 A. Yes.

13 Q. What did you do?

14 A. Deep personal thought while I'm
15 all by myself just to get ready.

16 Q. Did you review any documents?

17 A. No.

18 Q. Moving on to background.

19 What is your understanding of
20 Mr. Reynolds' claims?

21 A. I believe he feels that we
22 discriminated against him because he is a
23 medical marijuana user.

24 Q. Mr. Bonsky, where do you reside?

JACK BONSKY

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1 **A. Wyomissing, Pennsylvania.**

2 Q. And do you live with anyone?

3 **A. Yes.**

4 Q. With whom do you live?

5 **A. My wife.**

6 Q. How long have you been married?

7 **A. About four years.**

8 Q. Is this your first marriage?

9 **A. No.**

10 Q. What number marriage is this for
11 you?

12 **A. This is my second marriage.**

13 Q. Your wife, is it her first
14 marriage or is it a second marriage as well?

15 **A. It is her second marriage.**

16 Q. Do you have any children?

17 **A. Yes.**

18 Q. How many and what are their ages?

19 **A. I have three children that are**
20 **28 -- let me take that back. 26, 24, 22.**

21 Q. Do you use social media?

22 **A. Yes.**

23 Q. What social media do you use?

24 **A. LinkedIn.**

JACK BONSKY

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1 Q. May I assume that your name on
2 the LinkedIn is Jack Bonsky?

3 A. Name on it -- it's either Jack
4 Bonsky or Jack R. Bonsky. I don't recall.

5 Q. Do you use Facebook?

6 A. No.

7 Q. Smart man. Other than LinkedIn,
8 any other?

9 A. No. None.

10 Q. In broad strokes, what does
11 Willert do?

12 A. We make products that go in your
13 home, consumer packaged goods. So disposable
14 things, things to clean your home with. Other
15 plants do things like mothballs and fly swatters
16 and traps to catch insects. Here we do liquid
17 fill. And our products here are liquid fill
18 products, either under our name or somebody
19 else's. We're a third-party manufacturer. And
20 we also do air conditioners -- excuse me -- air
21 fresheners for ourselves and for another
22 customers.

23 Q. What is liquid fill?

24 A. Liquid fill?

JACK BONSKY

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1 Q. Yes.

2 A. You take a bottle, you fill it
3 with liquid, you cap it somehow, you put a label
4 on it and you put it in a cart. Like, I guess I
5 missed the fact -- the first thing you do is you
6 blend the chemicals together.

7 Q. And does Willert blend these
8 chemicals before it puts it in the container?

9 A. Yes.

10 Q. And you have a house brand of
11 some of these products?

12 A. What do you mean house brand?

13 Q. Meaning -- you said that you or I
14 believe I heard you say if -- I don't want to
15 misquote you -- that you do liquid fill for
16 other people's products -- other companies'
17 products and then do you also make -- does
18 Willert make their own products to sell directly
19 to consumers.

20 A. Yes.

21 Q. And --

22 A. Let me back up. Not directly to
23 consumers. Directly to customers that end up on
24 the shelf. That's where consumers get involved.

JACK BONSKY

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1 Q. What types of products are
2 involved in the liquid fill?

3 A. Our biggest runner is a product
4 called Ty D Bol, which is a toilet cleaner.

5 MS. FICARO: Just -- Jack, are
6 you finished your response there?

7 THE WITNESS: Yes.

8 MS. FICARO: I just want to
9 insert just a statement here, that to the extent
10 that he is testifying to any accommodations of
11 chemicals or anything else that would be
12 considered proprietary and confidential
13 information, that we would request that those
14 portions of the transcript are marked
15 confidential.

16 MR. AUERBACH: That's agreeable.

17 CONFIDENTIAL PORTION HELD UNDER SEPARATE COVER

18 *

19 *

20 *

21 *

22 *

23 *

24 *

JACK BONSKY

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10 *
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12 *

13 Q. Willert has a facility in
14 Douglassville, Pennsylvania; does it now?

15 A. Yes.

16 Q. And that's where you work?

17 A. Yes.

18 Q. How big of a facility is this?

19 A. It's about 87,000 square feet.

20 Excuse me. 86,000 square feet.

21 Q. And of the 86,000 square feet,
22 how many square -- all 86,000 square feet are in
23 active use; is that correct?

24 A. Yes.

JACK BONSKY

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1 Q. So approximately how many square
2 feet is Willert actually using of this 86,000
3 square foot facility?

4 A. **All of it.**

5 Q. What is your job title with
6 Willert?

7 A. **Plant manager.**

8 Q. And what are your duties?

9 A. **Virtually every person at the**
10 **facility reports to me, so I'm responsible for**
11 **-- I'll give you the functions that report in to**
12 **me: production, got maintenance, got**
13 **shipping/receiving, human resources, supply**
14 **chain, which is scheduling and buying things,**
15 **material handlers all work indirectly through**
16 **me, all the operators in the plant work**
17 **indirectly through me. The blenders work,**
18 **again, indirectly for me.**

19 Q. So you oversee the people?

20 A. **Yes.**

21 Q. Do you have any other duties?

22 A. **Yes.**

23 Q. What are they?

24 A. **I do project work that doesn't**

JACK BONSKY

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1 **directly involve managing people.**

2 Q. What's project work mean?

3 A. **Manufacturing engineering.**

4 Q. Can you give some examples?

5 A. **Yeah. I'm currently in the**
6 **process of purchasing a case taper, a machine to**
7 **take a box together. Specify it, get the**
8 **prices, get it ordered, get it in here, get it**
9 **installed.**

10 Q. So project manager work is if
11 there's a -- if there's a need for the plant, so
12 purchasing large equipment?

13 A. **Yes.**

14 Q. Anything else?

15 A. **Yes.**

16 Q. What else do you do?

17 A. **I have considerable customer**
18 **contact.**

19 Q. What does that mean?

20 A. **Well, everything from pre -- from**
21 **helpings us prepare quotations for jobs to**
22 **helping clarifying specifications with our**
23 **customers, providing the customer technical**
24 **advice and running sample runs here of first,**

JACK BONSKY

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1 **second, third-type runs when the customer comes**
2 **in.**

3 Q. You became the plant manager in
4 October 2020; is that correct?

5 A. **Yes, that's correct.**

6 Q. And who do you report to?

7 A. **Bryan Willert.**

8 Q. Do you report to anyone else?

9 A. **No.**

10 Q. And your current maintenance
11 manager reports to you?

12 A. **Yes.**

13 Q. What is this person's name?

14 A. **Rick Hansen, H-A-N-S-E-N.**

15 Q. H-A-N-S-E-N?

16 A. **Correct.**

17 Q. When did Mr. Hansen become the
18 maintenance manager?

19 A. **December 20th or so. Just before**
20 **the Christmas break.**

21 Q. Does Mr. Hansen report to anyone
22 else other than you?

23 A. **No.**

24 Q. And do you have the authority to

JACK BONSKY

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1 discipline Mr. Hansen?

2 A. Yes.

3 Q. What authority do you have?

4 A. To discipline, to coach and
5 counsel and have those difficult discussions
6 that end up in a file.

7 Q. Do you have the ability to put
8 someone on a performance improvement plan?

9 A. Yes, but I would always do that
10 in -- with HR to help out, and I would certainly
11 -- if it's somebody directly reporting to me,
12 I'd let my boss know what's going on.

13 Q. Do you have the ability to fire
14 anyone?

15 A. Not on my own.

16 Q. Who has that authority?

17 A. Well, it depends on where --
18 nobody fires -- no one person can fire anybody
19 in the organization. Like, for example -- well,
20 for example, if it's a person that's one step
21 below me, my direct reports, I can -- I can have
22 a recommendation for termination. I would
23 always run that through our HR person, make sure
24 it makes sense to do it, and then I'd run it by

JACK BONSKY

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1 my boss, Bryan Willert, to arrive -- to see if
2 he agrees.

3 Q. And since November 2020, have you
4 had to fire anyone?

5 A. Yes.

6 Q. Who have you had to fire?

7 A. There's been several --

8 MR. FICARO: Hold on a moment,
9 Jack. I just want to object here to offering
10 any testimony regarding, you know, personal and
11 confidential information regarding nonparties to
12 this action.

13 If you can ask your questions
14 without asking their names, Steven, you know, I
15 will permit Jack to answer that question as so
16 long as it doesn't reveal personal identifying
17 information regarding any individuals other than
18 Mr. Reynolds.

19 MR. AUERBACH: Well, I'm going to
20 ask their name. I'm not going to ask their
21 Social Security number, their bank information,
22 but I have to have some way of identifying who
23 these people are, the reasons for it. It's
24 plainly discoverable. Whether or not it's

JACK BONSKY

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1 admissible in evidence, that's a whole separate
2 issue.

3 MS. FICARO: It, frankly, would
4 have no relevance to this case, unless it was
5 somehow -- it was a termination for the same
6 reasons that, you know, Mr. Reynolds is claiming
7 that he was terminated here.

8 BY MR. AUERBACH:

9 Q. Mr. Bonsky, who have you
10 terminated?

11 MS. FICARO: Same objection. And
12 again, Jack, I would just advise you not to
13 offer their names.

14 BY MR. AUERBACH:

15 Q. Mr. Bonsky, I'm going to ask for
16 you to give their names. And if Eileen is going
17 to insist on this, I'm going to ask for us to
18 adjourn while I get the judge on the phone.

19 MS. FICARO: I'm going to advise
20 you not to answer in terms of these individuals'
21 names.

22 MR. AUERBACH: All right. How do
23 you want to handle this? Do you want -- I think
24 we got to call chambers here.

JACK BONSKY

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1 Let's go off the record.

2 - - -

3 (Whereupon, an off-the-record
4 discussion occurred.)

5 - - -

6 CONFIDENTIAL PORTION HELD UNDER SEPARATE COVER

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15 MS. FICARO: I think this is an
16 end run around that here in terms of getting
17 these individuals' names.

18 MR. AUERBACH: That's fine.

19 MR. FICARO: There must be other
20 ways for you to ask these questions that would
21 not reveal these individuals' names and their
22 identities and any employment action taken
23 against them here, something that would be
24 considered confidential and proprietary

JACK BONSKY

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1 information regarding nonparties to this action.

2 MR. AUERBACH: So you have an
3 issue with CR?

4 MS. FICARO: Yes.

5 MR. AUERBACH: Okay. Do you have
6 any other suggestions?

7 MS. FICARO: Well, I think it
8 depends on what you're looking for, Steve, but
9 --

10 MR. AUERBACH: I want to know who
11 was fired and for what.

12 MS. FICARO: A better way to ask
13 that would be -- well, I'm not going to advise
14 you as to how to ask your question here. I'm
15 just simply going to assert the objection with
16 regard to anything pertaining to the identities
17 of other individuals who were terminated.

18 MR. AUERBACH: Okay. So what
19 would make you feel more comfortable? So
20 there's more than one person, and we're going to
21 be referring to different people so how are we
22 going to keep them together?

23 MS. FICARO: Steve, that's up to
24 you in terms of how to do it, so long as it does

JACK BONSKY

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1 not reveal the identities of these individuals.

2 MR. AUERBACH: Well, revealing
3 them in deposition is a lot different than using
4 them as an exhibit.

5 MS. FICARO: Not necessarily,
6 Steve.

7 MR. AUERBACH: It's a completely
8 different standard, honestly.

9 CONFIDENTIAL PORTION HELD UNDER SEPARATE COVER

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BISNOW & JOSEPH
COURT REPORTING

JACK BONSKY

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BISNOW & JOSEPH
COURT REPORTING

JACK BONSKY

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3 MS. FICARO: Same objection with
4 regard to initials. And, again, just to be
5 clear, I would instruct him not to provide the
6 initials either, but I'll permit him to answer
7 as I did the similar -- the questions you asked
8 about the last individual.

9 BY MR. AUERBACH:

10 Q. Okay. We're going to call this
11 person Doe 3 -- or Doe 1.

12 Is this a man or a woman?

13 A. A woman.

14 Q. And why was Doe 1 fired?

15 A. Poor attendance.

16 Q. Did this person work for you or
17 for one of your subordinates?

18 A. One of my subordinates.

19 Q. Which subordinate?

20 A. Joe Woods.

21 Q. And did you or Mr. Woods give
22 this individual any kind of warning that their
23 job was in jeopardy because of attendance?

24 A. Yes.

JACK BONSKY

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1 Q. How many times?

2 A. I don't know.

3 Q. Was this in writing or was this
4 just in person?

5 A. In writing.

6 Q. And did this termination happen
7 before or after CR's termination?

8 A. After.

9 Q. Why was Doe 1 given a written
10 warning but CR was not?

11 A. When Doe 1 was terminated, that
12 was under -- well, let's back up a second. I
13 don't know that CR -- if CR got a warning or
14 not. I believe that's what I stated -- that's
15 what I meant to state. I don't know. I know
16 that Doe 1 did have warning or warnings,
17 according to our attendance policy.

18 Q. All right. The next person we're
19 going to talk about is Doe 2.

20 A. Okay.

21 Q. Why was Doe 2 fired?

22 A. Performance.

23 Q. What was this person's job?

24 A. Machine operator.

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1 Q. When was Doe 2 fired?

2 A. **Probably six weeks ago.**

3 Q. What was your involvement with
4 Doe 2's termination?

5 A. **I was -- I was told that we would**
6 **proceed with termination unless I objected.**

7 Q. So someone else made the call and
8 you were just asked to sign off on it?

9 A. **That's correct.**

10 Q. What type of performance issues
11 was Doe 2 having?

12 A. **Doe 2 was -- in the five days**
13 **that he worked for us -- wasn't getting along**
14 **with his teammates.**

15 Q. What does that mean?

16 A. **He was argumentative.**

17 Q. We discussed CR, Doe 1, Doe 2.
18 Is there another person?

19 A. **Yes.**

20 Q. We'll call this person Doe 3.
21 And why was Doe 3 fired?

22 A. **Gross misconduct.**

23 Q. What was Doe 3's job title?

24 A. **Blender.**

JACK BONSKY

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1 Q. How long ago was Doe 3 fired?

2 A. About two weeks ago.

3 Q. And what was the gross misconduct
4 that was the subject of termination?

5 A. He threatened employees.

6 Q. How so?

7 A. He said he was going to call
8 people to come in and beat up somebody.

9 Q. And obviously he wasn't warned
10 before he was fired.

11 You heard about that and you
12 fired him?

13 A. You are correct.

14 Q. Is there a Doe 4 or have we
15 discussed everyone?

16 A. We've discussed everybody.

17 Q. So other than -- other than CR,
18 Matthew Reynolds, Doe 1, 2 and 3, these are the
19 only individuals at Willert that you had
20 anything to do with their termination?

21 A. Correct.

22 Q. Have you ever reprimanded
23 Mr. Hansen?

24 A. No.

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1 Q. Have you ever disciplined him?

2 A. No.

3 Q. Have you ever coached him?

4 A. Yes.

5 Q. On what?

6 A. Prioritization.

7 Q. What does that mean?

8 A. Making sure he's working on what
9 is urgent to the company that he didn't
10 necessarily realize.

11 Q. When did this coaching session
12 happen?

13 A. The one I'm thinking about was in
14 January.

15 Q. Other than this January 2021 --
16 January 2021; correct?

17 A. Yes, this year.

18 Q. Other than that instance, did you
19 have any other opportunity or occasion to coach
20 him?

21 A. We have daily conversation, but
22 that -- what I talked to you about before, I
23 would call that coaching.

24 Q. And fair to say he's never been

JACK BONSKY

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1 put on a performance improvement plan?

2 A. That's correct.

3 Q. His salary -- Mr. Hansen's salary
4 is \$85,000; is it not?

5 MS. FICARO: Objection. Just
6 instruct him not to answer that question, to
7 provide information regarding Mr. Hansen's
8 salary information, as that's confidential
9 information pertaining to, you know, a nonparty
10 to this action.

11 BY MR. AUERBACH:

12 Q. Do you know if he makes more --
13 is his salary greater or less than
14 Mr. Reynolds'?

15 MS. FICARO: Same objection and
16 instruction.

17 MR. AUERBACH: It goes to
18 damages.

19 MS. FICARO: It does not.

20 BY MR. AUERBACH:

21 Q. *Was he eligible to earn a
22 \$15,000 bonus?

23 MS. FICARO: Same objection with
24 regard -- instruction with regard to

JACK BONSKY

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1 Mr. Hansen's earnings.

2 MR. AUERBACH: Okay. Court
3 reporter, would you mark this? Let's just
4 handle all these at the same time. And when I
5 say mark this, I mean where there's been
6 instruction not to answer with page and line.
7 And if you can, in any way, mark it now because
8 we're going to call the court --

9 MS. FICARO: Steve, in order to
10 avoid a discovery dispute, I welcome any
11 rationale as to how that bears relevance on this
12 case and why it's not confidential.

13 MR. AUERBACH: So, first off, you
14 haven't asserted any kind of privilege, and
15 that's not a basis to tell him not to answer --
16 to instruct the witness not to answer. The
17 other way you can instruct the witness not to
18 answer is by an insertion of privilege, for
19 which you have none. The second is this goes to
20 damages. I'd like to know if he earned a
21 \$15,000 bonus that Mr. Reynolds was going to get
22 and why or why not and the extenuating
23 circumstances. And you know the judge is going
24 to make him answer this, and the judge is going

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1 to be pissed off at you for making us have to
2 call. And he's going to be asking what's the
3 basis --

4 MS. FICARO: I disagree with
5 that, Steve, but setting that aside, if your
6 questions are specifically about the bonus, I'll
7 permit him to answer questions about the bonus.

8 MR. AUERBACH: Okay.

9 CONFIDENTIAL PORTION HELD UNDER SEPARATE COVER

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6 Q. What are Mr. Hansen's duties?

7 A. He's the maintenance manager.

8 He's in charge of the facility, the equipment.

9 He has the mechanics reporting in to him. He
10 purchases supplies.

11 Q. How many other facilities does
12 Willert have?

13 A. Three others.

14 Q. Where are they?

15 A. There's one in West Virginia,
16 there's also St. Louis, Missouri, and we have
17 operations in Shanghai, China.

18 Q. Mr. Bonsky, what's your highest
19 level of education?

20 A. Master's degree.

21 Q. In what?

22 A. Business administration.

23 Q. When did you get your degree?

24 A. 1989.

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1 Q. From where?

2 A. Kent State University.

3 Q. Do you have any certificates or
4 trainings?

5 A. Yes.

6 Q. In what?

7 A. I've been trained to be a Six
8 Sigma leader, Six Sigma yellow belt. I achieved
9 quality -- certified quality engineer status,
10 I've been trained in the DuPont safety training
11 observation program to have respect for
12 workplace training, I was -- I went through a
13 thing with Saint-Gobain called the management
14 development institute, which was four weekly
15 sessions -- I think it was four or three. I'm
16 not sure. It was weekly sessions at the
17 University of New Hampshire where they sent
18 their -- the better people they wanted to make
19 even better.

20 Q. This respect for workplace
21 training, what is that?

22 A. The takeaways were very
23 interesting, quite frankly. When it comes to
24 respect for workplace, the best way I can do is

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1 just explain. Like, if -- let's suppose I swear
2 around you and you don't like swearing, right.
3 In my mind I didn't do anything wrong, but in
4 your mind it's offensive. So being
5 disrespectful is in the eyes of the person who's
6 being -- who feels disrespect. So it teaches
7 you that if there is a situation, like if I --
8 if you feel that I've done something
9 disrespectful to you, it encourages the two
10 people to work it out amongst themselves, if
11 they can, not to go up the chain of command, but
12 to try to work things out at the lowest level
13 and just understand that what's offensive to one
14 is not necessarily the same as what's offensive
15 to somebody else. Sexual harassment is a part
16 of respect for the workplace, too. That's a big
17 one.

18 Q. Have you ever had any EEO
19 training?

20 MS. FICARO: I'm sorry. Excuse
21 me. EEO, did you say?

22 MR. AUERBACH: Yes. Equal
23 Employment Opportunity training.

24 THE WITNESS: No.

JACK BONSKY

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1 **BY MR. AUERBACH:**

2 Q. Any sexual harassment training?

3 **A. As part of the respect for**
4 **workplace. That's part of that.**

5 Q. Any workplace discrimination or
6 retaliation training?

7 **A. No.**

8 Q. What about any employment
9 harassment training?

10 **A. What do you mean by that, please?**

11 Q. Any training on hostile work
12 environments?

13 **A. Yes.**

14 Q. Where was this training?

15 **A. This was with Saint-Gobain again.**

16 Q. And did you attend that training
17 before you started working for Willert?

18 **A. Yes.**

19 Q. Has Willert ever given you any
20 harassment training?

21 **A. No.**

22 Q. Has Willert given you any Equal
23 Employment Opportunity training?

24 **A. No.**

JACK BONSKY

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1 Q. Have they given you any classes
2 on any of those topics?

3 A. No.

4 Q. Before you started working for
5 Willert, were you ever the plant manager of any
6 other company?

7 A. Yes.

8 Q. Where?

9 A. Been plant manager several times.
10 Most recently in Wales. I lived in the UK, ran
11 a plant there that was owned by Spectrum Brands
12 when I got overseas, and then we were purchased
13 by Energizer before I left. I ran a plant for
14 Spectrum Brands in Ohio, before that I ran a
15 plant for -- I was plant manager for a company
16 called Beckett Air prior to that.

17 Q. Do you have any previous human
18 resources experience?

19 A. Yeah. I -- I had -- human
20 resources has reported to me on several
21 occasions.

22 Q. In Willert, does human resources
23 report to you or someone else?

24 A. The plant human resources person

JACK BONSKY

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1 **reports to me.**

2 Q. Who is the plant human resources
3 manager?

4 A. **That's Deborah Kulp.**

5 Q. Is she related to John Kulp?

6 A. **No.**

7 Q. Have you discussed Mr. Reynolds
8 or his allegations with Debra Kulp?

9 A. **Yes.**

10 Q. What did you discuss?

11 A. **She was involved in our**
12 **preparations.**

13 Q. Preparations for what?

14 A. **For the deposition.**

15 Q. What does that mean, she was
16 involved in the preparations for this
17 deposition?

18 A. **She knew what was going -- it was**
19 **going on, and she answered some questions that I**
20 **had specifically involving the case.**

21 Q. What questions did you have?

22 A. **I wanted to --**

23 MS. FICARO: **To the extent that**
24 **any of these were conversations that we had, I**

JACK BONSKY

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1 would just instruct you not to disclose that,
2 but to the extent that they are not, you know,
3 please answer the question if you can.

4 **BY MR. AUERBACH:**

5 Q. And Mr. Bonsky, I want to be
6 clear what I'm asking. I'm not asking for
7 anything that you told the lawyer, but if
8 there's anything that you told Ms. Kulp, that's
9 what I'm asking you about.

10 A. I asked her for his -- for Matt's
11 training records.

12 Q. Why did you ask for Matt's
13 training records?

14 A. To see what he was trained in.

15 Q. When did you ask for Matt's
16 training records?

17 A. When we answered the -- I believe
18 it was eight questions that counsel sent to us
19 that involved training.

20 Q. And did Deborah Kulp give you
21 Matt's training records?

22 A. Not physically, but she let me
23 know what he had done.

24 Q. And training can mean any number

JACK BONSKY

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1 of things.

2 What do you mean by Matt's
3 training records?

4 **A. Well, we have very many formal**
5 **trainings that we do. Like, it's, I believe, 79**
6 **of them.**

7 Q. You're talking about -- so you
8 were asking about Matt's training records that
9 are Willert's records?

10 **A. Yes.**

11 Q. Are these OSHA trainings, safety
12 trainings? What are these trainings?

13 **A. They are. There's other**
14 **trainings as well.**

15 Q. And what is your understanding --
16 having had this conversation, what is your
17 understanding of Matt's training with Willert?

18 **A. I don't understand the question.**

19 Q. What type of training did Willert
20 give Matt?

21 **A. I inquired about the eight**
22 **questions that were posed, and that's what I**
23 **reviewed.**

24 Q. Do you know what training

JACK BONSKY

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1 Mr. Reynolds received from Willert?

2 A. The -- one of the OSHA trainings
3 he did get. It was question two, and I can't
4 recall the verbiage of that question.

5 Q. When did you receive that
6 question?

7 MS. FICARO: I just want to
8 object on the basis of privilege. To the extent
9 that you're referring to questions from me to
10 you, Jack, I would just instruct you not to
11 answer those, that they would be privileged. To
12 the extent that you're referring to something
13 non-privileged, you're permitted to answer the
14 question if you can.

15 Steve, do you want to re-ask the
16 question with that same instruction and
17 objection?

18 BY MR. AUERBACH:

19 Q. What else did you discuss with
20 Mr. Kulp about Mr. Reynolds?

21 A. That's Mrs. Kulp, by the way.

22 Q. Mrs. Kulp.

23 A. Okay.

24 Q. But not Mrs. to John Kulp?

JACK BONSKY

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1 A. That is correct. I have nothing
2 I can add.

3 Q. Did Mrs. Deborah Kulp -- was she
4 involved, in any way, in the decision to
5 terminate Mr. Reynolds?

6 A. No.

7 Q. When did she start working at
8 Willert?

9 A. Maybe the end of November, 1st of
10 December. It was after Mr. Reynolds' employment
11 ended.

12 MR. AUERBACH: This is a good
13 place to take a break.

14 - - -

15 (Whereupon, a brief recess was taken.)

16 - - -

17 BY MR. AUERBACH:

18 Q. Mr. Bonsky, did you have any
19 conversations with Eileen during our break?

20 A. No.

21 Q. Since you started working with
22 Willert, have any of your employees been hurt on
23 the job?

24 A. No. I take that back. No OSHA

JACK BONSKY

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1 **recordable injuries. We have had a handful of**
2 **first aid situations though.**

3 Q. Any workers' comp claims?

4 A. **There's an existing one, but**
5 **nothing new.**

6 Q. What does that mean, an existing
7 one? Did that predate your employment or --

8 A. **It predated my employment.**

9 Q. And the individual who has the
10 claim, what position did he hold?

11 A. **He's the plastics supervisor.**

12 Q. To your knowledge, did Mr. Hansen
13 have any first aid issues?

14 A. **I don't recall any.**

15 Q. What's your understanding of the
16 plastics supervisor's claim? How did it happen
17 and the injuries?

18 **MS. FICARO: To the extent that**
19 **this pertains to, you know, an ongoing claim**
20 **there, I object to this line of questioning.**

21 **BY MR. AUERBACH:**

22 Q. In this calendar year, have there
23 been any production man hours lost because of
24 work injuries?

JACK BONSKY

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1 **A. No.**

2 Q. When did you first learn that
3 Pennsylvania had legalized marijuana for medical
4 purposes?

5 **A. I don't know.**

6 Q. You are aware that it's legal for
7 medical purposes; are you not?

8 **A. Yes.**

9 Q. And do you think it's a good idea
10 for people with cancer or AIDS to have access to
11 additional medication?

12 **MS. FICARO: Objection. You can**
13 **answer it if you are able to answer it.**

14 **THE WITNESS: The answer is yes.**

15 **BY MR. AUERBACH:**

16 Q. What is your understanding of the
17 phrase medical marijuana patient employment
18 discrimination? And I'm not looking for a legal
19 definition. I'm asking you for your
20 understanding of what the term means.

21 **MS. FICARO: Objection to form.**
22 **You can answer if you are able to, Jack.**

23 **THE WITNESS: I don't know about**
24 **it.**

JACK BONSKY

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1 BY MR. AUERBACH:

2 Q. What's your understanding of the
3 term?

4 MS. FICARO: Same objection. You
5 can answer if you are able, Jack.

6 MR. AUERBACH: One second. I
7 need to make a record of this.

8 Eileen, I'm going to ask you not
9 to use the words if you're able. You can say --
10 obviously, you can object on any legitimate
11 grounds. You can then -- it's then appropriate
12 to direct the deponent to answer, but the words
13 if you are able may be misconstrued as coaching.
14 I'm going to ask you to not use the words if you
15 are able.

16 MS. FICARO: There is nothing
17 wrong or objectionable with me saying if you're
18 able and following that with instructing the
19 witness to answer. So I disagree with the
20 position that you're taking, but nonetheless,
21 the substance of my direction to the witness,
22 which is to answer the question despite my
23 objection, remains the same.

24 BY MR. AUERBACH:

JACK BONSKY

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1 Q. Have you ever been involved, in
2 any capacity, in formulating or crafting any
3 antidiscrimination policies at Willert?

4 A. No.

5 Q. Have you ever been involved, in
6 any capacity, in administering training on
7 antidiscrimination policies at Willert?

8 A. No.

9 Q. Does Willert have any policies to
10 make sure that medical marijuana patients are
11 not denied equal employment opportunities?

12 MS. FICARO: Objection. You can
13 answer.

14 THE WITNESS: Not that I'm aware
15 of.

16 BY MR. AUERBACH:

17 Q. We had briefly touched on this,
18 but Mr. Reynolds worked for Willert as a
19 maintenance manager.

20 What are a maintenance manager's
21 duties?

22 A. The maintenance manager is in
23 charge of the facility. That's everything from
24 the air conditioning to the roof. I take that

JACK BONSKY

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1 back. We rent. The roof is somebody else's
2 responsibility. But taking care of the office
3 plumbing and all that kind of stuff, responsible
4 for the machines, of maintaining them, repairing
5 them, leading the installation of new equipment,
6 ordering things that are required for the plant
7 to maintain it, making sure we have critical
8 spare parts.

9 Q. When you say maintaining and
10 repairing machines, you're referring to
11 overseeing his subordinates repair them?

12 A. That and he -- he would -- would
13 work on machines himself, as well, either with
14 his subordinates or alone.

15 Q. What machines would he work on?

16 A. What I remember -- I remember --
17 I can't recall specifically, but he used to
18 carry a little -- like a fanny pack kind of
19 thing, but not really -- I think it was on his
20 belt, but he used to carry tools with him and
21 gloves, and I know he got his hands dirty. I
22 just can't recall exactly what he's worked on.

23 Q. Did you ever see him working on
24 machines?

JACK BONSKY

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1 A. I probably did. I can't think of
2 a specific instance.

3 Q. This position doesn't have
4 anything to do with confined spaces; does it?

5 A. Only to the -- only to the degree
6 that this position has to understand that we do
7 not -- we, Willert, do not go into confined
8 spaces.

9 Q. So he would not have been
10 expected to go into a confined space?

11 A. That's correct.

12 Q. Would he have been expected to
13 work at heights?

14 A. Yes.

15 Q. What does that mean?

16 A. I can give you an example.
17 Like, we have a scissor lift that
18 goes, I don't know, 25 feet in the air and there
19 can be -- I mean, the current maintenance
20 manager goes up and, you know, mount wood of --
21 I don't know if he did, but that would be his
22 responsibility. Sometimes you have to fix
23 things that are way up.

24 Q. And you're referring specifically

JACK BONSKY

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1 to that lift?

2 **A. That's what I am, yes.**

3 Q. And is the lift -- when one goes
4 up on the lift, is it an enclosed --

5 **A. No.**

6 Q. Are there any fall barriers to
7 prevent a fall?

8 **A. Yeah. There are rails around it.**

9 Q. How high are the rails?

10 **A. About 36 inches, guessing.**

11 Q. You never saw Matt on that lift;
12 did you?

13 **A. No, I did not.**

14 Q. How often does the current
15 maintenance manager go off -- go up on that
16 lift?

17 **A. Probably at least once a week. I
18 don't pay attention. It's not that big a deal
19 to me. I see him regularly using it.**

20 Q. Is there a harness that one wears
21 when one goes on this?

22 **A. No.**

23 Q. Do you know the name of the lift?

24 **A. No.**

JACK BONSKY

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1 Q. Is it a cherry picker?

2 A. No. So a cherry picker has an
3 articulating arm generally. This one just goes
4 straight up and straight down, and then it moves
5 with wheels on the -- tires on the ground.

6 Q. Does one need a license to
7 operate this machine?

8 A. No.

9 Q. Have you ever been on it?

10 A. No.

11 Q. Any reason why?

12 A. No.

13 Q. How's it powered?

14 A. Battery powered. Rechargeable.

15 Q. Other than this lift, any other
16 heights the maintenance manager is involved in?

17 A. Ladders.

18 Q. Anything else?

19 A. Nothing else comes to mind.

20 Q. And this position has nothing to
21 do with public utilities like gas, water,
22 sewage; does it?

23 A. I don't understand that question.

24 Q. I know it's clunky.

JACK BONSKY

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1 Does the maintenance manager have
2 anything to do with operating sewage?

3 **A. Yes.**

4 Q. What?

5 **A. Well, all of the -- the drains**
6 **are his responsibility, to keep them clear and,**
7 **you know, not leaking.**

8 Q. How long did Mr. Reynolds work
9 for Willert?

10 **A. I count either 14 or 17 days he**
11 **was actually here and working for me. I don't**
12 **recall the number because he had some days he**
13 **missed.**

14 Q. The days I have of his employment
15 are October 16, 2020 through November 5, 2020.

16 Is that your understanding?

17 **A. That sounds correct.**

18 Q. And you were his supervisor
19 during that time?

20 **A. Yes.**

21 Q. Did you consider Mr. Reynolds to
22 be your friend?

23 **A. No.**

24 Q. Did you socialize with him

JACK BONSKY

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1 outside of work?

2 **A.** He occasionally would send me
3 text messages, and I -- I was not especially
4 responsive.

5 Q. What sorts of messages would he
6 send you?

7 **A.** He sent one that was a lead on a
8 music store because he knows I play guitar, and
9 he sent one at Thanksgiving. I frankly just did
10 not understand. It was -- I don't know.

11 Q. Did you ever put him on a
12 performance improvement plan?

13 **A.** No.

14 Q. Did you ever write him up?

15 **A.** No.

16 Q. Did you ever give him an oral
17 warning?

18 **A.** Yes.

19 Q. For what?

20 **A.** I told him he had to let his
21 people know where he is because that was their
22 complaint.

23 Q. Was that the only oral warning
24 you ever gave him?

JACK BONSKY

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1 **A. That's all I remember.**

2 Q. Do you recall when that warning
3 occurred?

4 **A. No.**

5 Q. Was anyone else around when you
6 gave him that warning?

7 **A. No.**

8 Q. Do you recall his response to
9 that warning?

10 **A. I don't remember.**

11 Q. Did you give him any kind of
12 coaching?

13 **A. Beyond that, nothing. Excuse me.**
14 **Nothing that I characterize as coaching. We had**
15 **daily conversations of course.**

16 Q. Did you ever give him any
17 coachings on his performance?

18 **A. No.**

19 Q. Did you ever let him know that
20 his job was in jeopardy?

21 **A. No.**

22 Q. Have you ever had any
23 conversations with him about what you might have
24 perceived to be performance deficiencies other

JACK BONSKY

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1 than the instance you had just discussed?

2 **A. Please restate that. I got lost.**
3 **My apologies.**

4 Q. Other than the instance in which
5 you told him you got to let your people know
6 where you are, did you ever have any other
7 conversations with him that might have been
8 perceived as a performance deficiency?

9 A. **Yes.**

10 Q. What was that?

11 A. He -- we do a -- he came onto the
12 shop floor -- this is during COVID and masking
13 -- and he was on the shop floor with a leather
14 mask, which I don't care about, but it had nose
15 holes in it so it wouldn't -- with the nose
16 holes it wasn't doing what face masks were
17 supposed to do, so I asked him to put on a
18 proper one. First thing he says, well -- well,
19 they don't work anyway, because they aren't N95
20 masks then -- you know, 30 seconds later he
21 says, well, I'll change it.

22 Q. But you didn't write him up for
23 that?

24 A. No. That was in a public

JACK BONSKY

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1 **setting. I mean, certain things you got to take**
2 **care of, like masks during COVID.**

3 Q. Overall, how would you describe
4 his abilities as a maintenance manager?

5 A. **Below average.**

6 Q. On what basis do you say that?

7 A. **I guess I can give you an**
8 **example. I was with Bryan Willert on our line**
9 **13, and there's a discussion about something**
10 **electrical. I don't recall exactly what it was,**
11 **but Bryan and I later talked, and it's like Matt**
12 **doesn't really seem to understand. It's**
13 **something he should have understood. Again, I**
14 **don't even recall what the electrical thing was**
15 **and, of course, his attendance wasn't good.**

16 Q. Did you ever warn him about his
17 attendance?

18 A. **No.**

19 Q. Did you ever write him up for his
20 attendance?

21 A. **No.**

22 Q. Did you ever coach him about his
23 attendance?

24 A. **Let me back up here. Attendance**

JACK BONSKY

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1 in terms of showing up -- I did coach him about
2 showing up for work and letting people know when
3 he's there, if you call that attendance, but
4 beyond that, no.

5 Q. Is that what -- what you meant
6 when you said attendance? Is that what you
7 meant about the complaint?

8 A. No.

9 Q. That's separate?

10 A. That's separate. He would come
11 in late, and he missed entire days.

12 Q. On what days did he come in late?

13 A. I don't have that at my
14 fingertips. I've provided -- I have it, but not
15 at my fingertips.

16 Q. How many days did he come in
17 late?

18 A. I don't remember.

19 Q. How do you know he came in late?

20 A. I can remember at least one time.
21 There were others. I tabulated this at one
22 point. I remember tabulating it.

23 Q. When you tabulated it, was it
24 before or after being terminated?

JACK BONSKY

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1 A. I don't remember.

2 Q. And what did you do with those
3 tabulations?

4 A. I can't speak to that.

5 Q. Did you give them to your
6 attorney?

7 THE WITNESS: Am I allowed to
8 answer that?

9 MS. FICARO: As long as you don't
10 disclose any conversations or discussions that
11 were had --

12 THE WITNESS: Okay.

13 MS. FICARO: -- with any
14 attorneys, myself or prior counsel then, yes,
15 you can answer the question.

16 THE WITNESS: Yes, I did provide
17 it to counsel.

18 BY MR. AUERBACH:

19 Q. What information did you use to
20 generate those tabulations?

21 A. I -- well, for one, I flat out
22 just remembered because it was a very short
23 period of time when he worked here, and I have
24 -- I had, at the time, some text -- I know I had

JACK BONSKY

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1 a text message on one Monday that he came in
2 late. I think he said something to the effect
3 of decided to have breakfast at whatever time.
4 So it was very fresh at the time. He hadn't
5 worked here long.

6 Q. Did you ever share, with
7 Mr. Reynolds, these tabulations?

8 A. No.

9 Q. When was his shift supposed to
10 start?

11 A. He didn't -- the maintenance
12 manager does not work shift work, but I expect a
13 person to be here at a reasonable time, meaning
14 8 o'clock or before, in the morning, and stay in
15 through the afternoon or you can switch it a
16 little bit. If you want to do a 7:00 to 4:00,
17 that's fine. At the time we were working two
18 shifts. The first shift started at 5:30 and
19 ended at 2:30. So there's some leeway, but I
20 would expect a maintenance manager to have
21 contact with both shifts.

22 Q. Is there anything in writing that
23 says when a maintenance manager is supposed to
24 start his shift?

JACK BONSKY

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1 **A. No.**

2 Q. Did you ever have any
3 conversations with him as to what time you
4 expected him to be there?

5 **A. Yes. When I talk -- yes.**

6 Q. How many?

7 **A. One.**

8 Q. What did you tell him?

9 **A. That was incorporated with the**
10 **information of you got to tell your guys where**
11 **you are.**

12 Q. And what was his response?

13 **A. I don't remember.**

14 Q. After you had that conversation
15 with him, were there any other latenesses?

16 **A. I don't remember.**

17 Q. Did you conduct any performance
18 reviews for him?

19 **A. No.**

20 Q. Any reason?

21 **A. I didn't feel that he had been**
22 **here long enough for me to have a meaningful**
23 **review with him.**

24 Q. Honesty and integrity are two

JACK BONSKY

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1 important characteristics for individuals who
2 work for Willert; is that correct?

3 **A. Yes.**

4 Q. How important would you say those
5 characteristics are?

6 **A. Very important.**

7 Q. If you feel like you can't
8 answer, just let me know, but on a scale of 1 to
9 10, how important are honesty and integrity for
10 Willert employees?

11 **MS. FICARO: Object to form.**

12 **THE WITNESS: I don't remember.**

13 **BY MR. AUERBACH:**

14 Q. Do you have any reason to doubt
15 Mr. Reynolds' honesty or integrity?

16 **A. No.**

17 Q. Can you recall any occasion which
18 you believe that Mr. Reynolds potentially told a
19 lie?

20 **A. No.**

21 Q. Did you ever see Mr. Reynolds use
22 marijuana at work?

23 **A. No.**

24 Q. Did you ever see Mr. Reynolds

JACK BONSKY

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1 appear intoxicated at work?

2 **A. No.**

3 Q. I'm going to ask you a series of
4 questions about Mr. Reynolds' allegations.

5 When did you first learn that
6 Mr. Reynolds had failed his drug test?

7 **A. Probably two to three days prior**
8 **to his termination.**

9 Q. And how were you made aware?

10 **A. The report came from Dave Furno.**
11 **He coordinated the drug test.**

12 Q. When you say a report, was this a
13 written report or oral report or both?

14 **A. Written.**

15 Q. How did you receive this written
16 report? Was it handed to you, e-mail?

17 **A. Handed to me.**

18 Q. Mr. Furno handed it to you or
19 someone else did?

20 **A. Yeah, Mr. Furno.**

21 Q. Would it be -- what did Mr. Furno
22 tell you when he handed you this report?

23 **A. Matt failed his drug test.**

24 Q. The report that he handed to you,

JACK BONSKY

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1 was that the results of the drug test or
2 something else?

3 **A. Results.**

4 Q. Do you recall if it was more than
5 one page?

6 **A. It was one page.**

7 Q. Other than that one page, the
8 drug results, did you see any other paperwork
9 that indicated that he had failed his drug test?

10 **A. No.**

11 Q. When Mr. Furno told you that Matt
12 had failed his drug test, what did you then do?

13 **A. I don't recall -- I do. Yeah. I**
14 **-- that's when I reached out to Tammy for her**
15 **guidance, Tammy Gillette, the HR person handling**
16 **this.**

17 Q. What did you -- what did you tell
18 Ms. Gillette?

19 **A. I just factually said here's the**
20 **drug test.**

21 Q. Did you send her a copy of the
22 results?

23 **A. I'm sure I did.**

24 Q. Do you recall what Ms. Gillette

JACK BONSKY

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1 told you in response to you telling her that
2 Mr. Reynolds failed the test?

3 A. Specific conversation, no, but we
4 talked about needing to terminate Mr. Reynolds,
5 which I then got with my boss, Bryan Willert,
6 because, again, nobody fires anyone alone and
7 explained it to him and made the recommendation
8 for termination and then we had some
9 conversation about not that big a loss anyway
10 because he wasn't performing great.

11 Q. Now, you had mentioned with
12 respect to Doe 3 -- that's the gross misconduct
13 individual, that you more or less just signed
14 off on the termination, that someone else made
15 the call.

16 Who made the call or the
17 recommendation to fire Mr. Reynolds?

18 MS. FICARO: Objection to form.
19 You can answer.

20 THE WITNESS: I'm sorry, Eileen?

21 MS. FICARO: I just said
22 objection to form. You can answer.

23 THE WITNESS: Okay. Bryan
24 Willert was the person that authorized the

JACK BONSKY

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1 **termination.**

2 **BY MR. AUERBACH:**

3 Q. Did anyone recommend the
4 termination to Bryan Willert or did he come up
5 with it on his own idea?

6 A. **I recommended it to him.**

7 Q. Was this on the day that you
8 became aware that he had failed the drug test?

9 A. **Not sure if it was that day. It**
10 **was very shortly after.**

11 Q. How was the termination
12 communicated to Mr. Reynolds?

13 A. **It was the set -- he had missed**
14 **two days of work in a row, so we did it by**
15 **telephone. I made the call from my desk with Ed**
16 **Kennet at my side, was the witness to it, and I**
17 **read the termination letter that Tammy had**
18 **prepared word for word, top to bottom, and then**
19 **at that point Matt sounded like he was crying,**
20 **and he goes, but I have a card, and it's not**
21 **even -- I don't even smoke pot. It's -- I get**
22 **CBD from a place in Oregon, he said, for his**
23 **anxiety. So I said fuck it. Let me make a**
24 **call. So I called Tammy about it and -- just to**

JACK BONSKY

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1 verify what her thoughts were, and she was like
2 it doesn't make a difference. So I called Matt
3 back, and it went to voice mail, and I said, you
4 know, you are terminated, and I let him know
5 we'd send the stuff to his house.

6 Q. When Mr. Reynolds told you that
7 he had a card, what did that mean to you?

8 A. It was a medical marijuana card,
9 was my understanding. The first I heard, you
10 know, from him that he had one.

11 Q. Did you ask him why he had a
12 card?

13 A. No. He volunteered it was for
14 anxiety though.

15 Q. Why did you call Ms. Gillette
16 after he told you that he had a card?

17 A. Just to make sure that having the
18 card could somehow change something.

19 Q. Why would it change something?

20 A. I don't know. I never been in a
21 situation like this. Unfamiliar situations
22 involving human resource things you talk to a
23 human resources specialist to make sure you're
24 doing the right thing is important.

JACK BONSKY

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1 Q. How long was the conversation
2 with Tammy when you told her that Mr. Reynolds
3 had the card?

4 A. Just several minutes.

5 Q. What chemicals do you have at
6 your plant?

7 A. We have dozens and dozens, if not
8 hundreds and hundreds of chemicals. Wide
9 variety. Everything from water -- well,
10 shouldn't say water. In terms of what they are,
11 we have things that are, like, soaps, we have
12 things that are acids, we have things that are
13 caustics, we have fragrances, we have colorants.
14 Some of -- most of what we have is liquid and
15 some is powder, some is palettes.

16 Q. Who handles the ordering of the
17 chemicals?

18 A. There's two people that order the
19 chemicals. One is the -- some of them the
20 supply chain manager orders, and we have a
21 gentleman that title is purchasing, but he
22 doesn't do very much of that. He orders some of
23 our things.

24 Q. I'm sorry. You cut out.

JACK BONSKY

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1 A. Yeah. We have two people. One
2 is a supply chain manager, the other is a person
3 whose title is purchasing, but as a practical
4 matter, he does very little of it.

5 Q. Do you oversee this process, at
6 all?

7 A. Yes.

8 Q. What's your involvement in the
9 procurement of these chemicals?

10 A. The two gentlemen I'm talking
11 about that are direct reports to me, so they're
12 accountable to me.

13 Q. Do any of these chemicals require
14 licenses or permits?

15 A. We register with the state for
16 some of our chemicals. Not sure if you call
17 that license approval.

18 Q. What state agency?

19 A. I don't know.

20 Q. Is it the Department of
21 Environment?

22 A. It could be the DEP. I don't
23 know.

24 Q. What chemicals have to be

JACK BONSKY

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1 registered with the state?

2 **A. I frankly don't know the criteria**
3 **for that.**

4 Q. Other than registering some of
5 these chemicals with the state, do you have to
6 have any other permits or licenses?

7 **A. Boiler permit to run a boiler.**

8 Q. But specifically for these
9 chemicals, do you need any licenses or permits
10 for these chemicals?

11 **A. No.**

12 Q. If Mr. Reynolds hadn't failed his
13 drug test, would he have been fired on November
14 5th?

15 **A. No.**

16 Q. Why do you say that?

17 **A. I guess there's several ways you**
18 **get terminated, and he didn't reach any of the**
19 **thresholds for termination. He had only been**
20 **here a few weeks.**

21 Q. So fair to say that's the reason
22 he was fired?

23 **MS. FICARO: Objection.**

24 **THE WITNESS: What's the reason**

JACK BONSKY

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1 -- I didn't -- we fired him --

2 BY MR. AUERBACH:

3 Q. Is it fair to say he was fired
4 because of the drug test?

5 MS. FICARO: Objection.

6 THE WITNESS: Yes.

7 BY MR. AUERBACH:

8 Q. Mr. Bonsky, I'm just reviewing my
9 notes.

10 Do you believe he should have
11 been fired for this?

12 MS. FICARO: Objection. You can
13 answer.

14 THE WITNESS: Please say it
15 again. I thought I heard a double negative in
16 there. Maybe I got confused.

17 BY MR. AUERBACH:

18 Q. Do you believe that Mr. Reynolds
19 should have been fired for this?

20 MS. FICARO: Objection.

21 THE WITNESS: Yes.

22 BY MR. AUERBACH:

23 Q. Why do you say that?

24 A. It was a violation of -- it was a

JACK BONSKY

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1 **company policy that you had to pass a drug test.**

2 **It was a violation.**

3 Q. The company policy on passing the
4 drug test, does it differentiate between
5 employees' medical marijuana usage or
6 recreational usage?

7 A. **I don't know.**

8 Q. Is it Willert's policy that it
9 can fire medical marijuana patients for their
10 off-duty use of medical marijuana?

11 A. **I'm not aware of a policy like**
12 **that.**

13 Q. Are you aware of any policy that
14 a medical marijuana patient wouldn't be fired
15 for their off-duty use of medical marijuana?

16 A. **No.**

17 **MS. FICARO: Objection to form.**

18 **You can answer.**

19 **THE WITNESS: I'm not aware of**
20 **that. I don't know all the policies necessarily**
21 **either.**

22 **BY MR. AUERBACH:**

23 Q. Mr. Hansen is not licensed to
24 operate or control chemicals; is he?

JACK BONSKY

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1 **A. He is not licensed, yes, that's**
2 **correct.**

3 Q. And your maintenance managers are
4 not required to be licensed to operate or
5 control high-voltage electricity?

6 **A. That's correct.**

7 Q. And your maintenance managers are
8 not required to possess electrical journeyman
9 certificates?

10 **A. That's correct.**

11 Q. Does Willert provide arc flash or
12 electrical safety courses to its maintenance
13 managers?

14 **A. No.**

15 **MR. AUERBACH: That's all I have**
16 **for you.**

17 **Eileen, do you have anything?**

18 **MS. FICARO: I do.**

19 - - -

20 **EXAMINATION**

21 - - -

22 **BY MS. FICARO:**

23 Q. I just have one question,
24 Mr. Bonsky.

JACK BONSKY

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1 Did the performance issues that
2 you mentioned and testified to here today that
3 Mr. Reynolds had while working there, did they
4 factor into your recommendation that he be
5 terminated as well?

6 A. I included that in the
7 information with Bryan Willert, that his
8 performance was poor.

9 MS. FICARO: That's all I have.
10 Thank you.

11 MR. AUERBACH: Mr. Bonsky, thank
12 you so much.

13 * * * * *

14 (Whereupon, at 3:21 p.m., the
15 deposition of JACK BONSKY
16 was concluded.)

17 * * * * *

18

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JACK BONSKY

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1 C E R T I F I C A T E

2

COMMONWEALTH OF PENNSYLVANIA:

3

COUNTY OF PHILADELPHIA:

4

5 I, Masheka Pettiford, a Notary Public within
6 and for the County and State aforesaid, do
7 hereby certify that the foregoing deposition of
8 JACK BONSKY, was taken before me, pursuant to
9 notice, at the time and place indicated; that
10 said deponent was by me duly sworn to tell the
11 truth, the whole truth, and nothing but the
12 truth; that the testimony of said deponent was
13 correctly recorded in machine shorthand by me
14 and thereafter transcribed under my supervision
15 with computer-aided transcription; that the
16 deposition is a true record of the testimony
17 given by the witness; and that I am neither of
18 counsel nor kin to any party in said action, nor
19 interested in the outcome thereof.

20

21 WITNESS my hand and official of this 7th day
22 of September, 2021.

23

24

25

26

MASHEKA C. PETTIFORD - - - - -
Notary Public

27

28

29

30

31

32

JACK BONSKY

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1 INSTRUCTIONS TO WITNESS

2 Please read your deposition
3 over carefully and make any necessary
4 corrections. You should state the reason in the
5 appropriate space on the errata sheet for any
6 corrections that are made.

7 After doing so, please sign the
8 errata sheet and date it.

9 You are signing same subject to
10 the changes you have noted on the errata sheet,
11 which will be attached to your deposition.

12 It is imperative that you
13 return the original errata sheet to the deposing
14 attorney within thirty (30) days of receipt of
15 the deposition transcript by you. If you fail
16 to do so, the deposition transcript may be
17 deemed to be accurate and may be used in court.

18

19

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JACK BONSKY

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JACK BONSKY

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby
 certify that I have read the foregoing pages, _ _
 _ _ _ _ and that the same is a correct
 transcription of the answers given by me to the
 questions therein propounded, except for the
 corrections or changes in form or substance, if
 any, noted in the attached Errata Sheet.

 DATE

 SIGNATURE

Subscribed and sworn to before me this
 _ _ _ _ _ day of _ _ _ _ ,
 202 _ _ .

My commission expires: _ _ _ _ _

 Notary Public

JACK BONSKY

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Exhibit 13

TAMMY GILLETTE

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -
MATTHEW REYNOLDS, : NO.: 5:21-cv-01208
Plaintiff, :
v. :
WILLERT MFG. CO., LLC, :
Defendant. :

- - -
Friday, September 3, 2021
- - -

Oral deposition of TAMMY GILLETTE,
held via ZOOM VIDEOCONFERENCE, commencing at
11:04 a.m., on the above date, before Masheka C.
Pettiford, a Professional Shorthand Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania.

- - -
BISNOW & JOSEPH COURT REPORTING
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215-567-1701
Bisnowandjoseph@verizon.net

BISNOW & JOSEPH
COURT REPORTING

TAMMY GILLETTE

Page 2

1 **A P P E A R A N C E S :**

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TAMMY GILLETTE

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I N D E X
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Testimony of: TAMMY GILLETTE

By Mr. Auerbach.5

- - -
E X H I B I T S
- - -

EXHIBIT NO.	DESCRIPTION	PAGE NO.
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(No exhibits were marked.)

TAMMY GILLETTE

Page 4

1 DEPOSITION SUPPORT INDEX

2

3 DIRECTION TO WITNESS NOT TO ANSWER:

4 Page Line

5 (None)

6

7 REQUEST FOR PRODUCTION OF DOCUMENTS:

8 Page Line

9 (None)

10

11 STIPULATIONS:

12 Page Line

13 5 2-11

14

15 QUESTION MARKED:

16 Page Line

17 (None)

18

19

20

21

22

23

24

TAMMY GILLETTE

Page 5

1

- - -

2

MR. AUERBACH: There are four

3

stipulations. One, the witness will have the

4

opportunity to read the deposition, two, the

5

witness will have the opportunity to make any

6

corrections on an errata sheet, three, the

7

witness will sign the deposition, correct or

8

not, verifying its accuracy, four, all

9

objections, except to the form, are reserved,

10

and even if they are not made during this

11

deposition are not waived.

12

Eileen, is that your

13

understanding?

14

MS. FICARO: Yes.

15

MR. AUERBACH: Would you swear in

16

the witness please.

17

- - -

18

TAMMY GILLETTE, after having been

19

duly sworn, was examined and testified as

20

follows:

21

- - -

22

EXAMINATION

23

- - -

24

BY MR. AUERBACH:

TAMMY GILLETTE

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1 Q. Ms. Gillette, good morning.
2 Again, my name is Steve Auerbach. I represent
3 Matthew Reynolds in a lawsuit that he filed
4 against Willert. We are here today to take your
5 deposition in connection with this lawsuit.

6 Do you understand that you have
7 an obligation to tell the truth today?

8 **A. Yes.**

9 Q. Do you also understand that you
10 have an obligation to understand all questions
11 asked of me and that if you don't understand an
12 -- if you don't understand the question, you
13 have an obligation to tell me you don't
14 understand it?

15 **MS. FICARO: Objection to form.**

16 **THE WITNESS: Yes.**

17 **BY MR. AUERBACH:**

18 Q. Do you agree to tell me that if
19 for whatever reason you don't understand the
20 question, that you will tell me I don't
21 understand the question?

22 **A. Yes.**

23 Q. Okay. Now I saw you before --
24 you said yes, I saw you shake your head in the

TAMMY GILLETTE

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1 affirmative. This is being written down, so I'm
2 going to ask you to verbalize all answers with
3 either a yes, no or other explanation but no
4 uh-uhs. Even though I see you, I know what you
5 mean. This is for the benefit of the record.

6 **A. Correct. Yes.**

7 Q. Have you ever been deposed
8 before?

9 **A. Never.**

10 Q. There's a first time for
11 everything. All right.

12 What's your position?

13 **A. I'm the human resource manager.**

14 Q. How long have you had this
15 position?

16 **A. Almost six years.**

17 Q. And do you have any degrees or
18 certifications that assist you in this position?

19 **A. No, I do not.**

20 Q. Did you attend college?

21 **A. Yes, I did.**

22 Q. Did you obtain any degrees?

23 **A. I have a bachelor's degree, yes.**

24 Q. What is your bachelor's degree

TAMMY GILLETTE

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1 in?

2 A. Leadership and management.

3 Q. From where?

4 A. National Louis University.

5 Q. And other than your bachelor's
6 degree, do you have any other degrees?

7 A. No, I do not.

8 Q. Do you have any certifications?

9 A. Yes.

10 Q. What are those certifications in?

11 A. That was my hesitation, because I
12 knew you were going to ask me what they were. I
13 don't remember exactly the title of all of them,
14 but I've gone to different HR courses through
15 the years and received different HR
16 certifications for those courses. I just don't
17 remember all the names of them. I apologize.

18 Q. That's fine. And the instruction
19 that I'm about to give you applies to this
20 question and all other questions.

21 If you remember -- because that's
22 how memory works -- if you remember at any point
23 later on today, just let me know and we can come
24 back to that.

TAMMY GILLETTE

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1 A. Okay.

2 Q. Okay. When was your -- so do you
3 recall the institutes or the organizations that
4 gave you this HR training?

5 A. Several of them have been threw
6 SHRM, which is an HR organization.

7 Q. Could you spell that?

8 A. Sure. It's just SHRM. It stands
9 for Society of Human Resource Management.

10 Q. And what was your most recent
11 training or certification with SHRM?

12 A. My most recent one was on the
13 changes with medical care because of COVID. It
14 had something to do with insurance -- medical --
15 something along those lines and how COVID plays
16 a factor in it because we are -- we just went
17 through the -- all the conversations to renew
18 our insurance plan.

19 Q. What other trainings and
20 certifications did you receive for SHRM, and I'm
21 asking for topics?

22 A. Right. So I periodically will
23 get just general -- go to their general HR
24 courses that they have updates on HR. I'm sure

TAMMY GILLETTE

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1 you're well aware of the fact that laws and
2 everything else continues to change, and so
3 periodically they just have courses on different
4 updates. Like, this one was on the medical
5 insurance because of COVID, so they would have
6 updates such as that. So there's been a lot of
7 stuff based on COVID in the last year that has
8 been the majority of what I've attended.
9 Anything related to COVID in the last year has
10 been my focus because that has created so many
11 things.

12 Q. Have you had any other focuses in
13 terms of education and development?

14 A. Yes. So there is -- Armstrong
15 Teasdale is a law office that is here in St.
16 Louis, and we are actually a client of theirs
17 and they have annual employment labor seminars
18 every year, and I attend those every year. And
19 then every so often there will be other ones
20 that pop up, so there is a group that's based in
21 St. Louis that is -- it's AAIM, and I apologize.
22 I don't remember what the letters stand for. I
23 know one of the A's is association, but they
24 have different webinars as well. Typically,

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1 those will be -- oh, my gosh. There's a wide
2 variety of those, so it could have to do with
3 unions, it could have to do with HR in general
4 and there's been some recently on recruiting so
5 those will be rather short, usually 45 minutes
6 to an hour but I've attended several of those in
7 the last year. And those have been primarily
8 the ones that I've attended in the last year.
9 So between SHRM, AAIM and then Armstrong
10 Teasdale in the last year, those have been my
11 focus.

12 Q. Who pays for your attendance?
13 Does Willert pay or do you pay?

14 A. Because we are a client, there
15 has been no cost.

16 Q. That's for Armstrong Teasdale;
17 right?

18 A. So for Armstrong Teasdale and for
19 AAIM, there's -- we use both of them, and so any
20 of those webinars that I've attended have been
21 at no cost to us. The SHRM ones -- I've been a
22 member of SHRM for many years, and so it's just,
23 again -- although I don't think that there would
24 have been a cost even if I weren't a member

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1 because SHRM does have a lot of webinars and
2 seminars that are free, so --

3 Q. Do you recall taking any webinars
4 or seminars on medical marijuana?

5 A. Not specifically medical
6 marijuana, no.

7 Q. Do you recall taking any webinars
8 or seminars on marijuana in general?

9 A. There has not been any seminar or
10 webinar that I have taken part of that that was
11 the only focus, but when they're providing
12 updates on here's what's going on in the
13 country, there has been a time information was
14 presented so it wasn't the only subject, but it
15 was one of several.

16 Q. And what information do you
17 recall being presented on medical marijuana?

18 A. I do recall that they talk about
19 the states that are implementing new medical
20 marijuana laws and the implication of what those
21 mean and that it appears as though as a country
22 we are moving towards more and more states
23 having the legislation of that. To give you any
24 more specifics it would be purely a guess.

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1 Q. You said you've been a member of
2 SHRM for years.

3 Approximately how many years?

4 A. I have been a member of SHRM off
5 and on since, I believe, maybe around 2005.

6 Q. So about 16 years?

7 A. Off and on, yes.

8 Q. Is that how long you've been
9 working in HR?

10 A. I've been in HR -- well, I should
11 say doing HR functions for almost 30 years, yes.

12 Q. And help me understand.

13 What's the difference between
14 being in HR and doing HR functions? What do you
15 mean by that?

16 A. So I initially -- I look at my
17 inaugural role in HR is when I ran a parenting
18 program, and I started running that program back
19 in the early 1990s. So even though I did not
20 have an HR title, I was responsible for hiring
21 people and putting together information about
22 what all of the employees were going to do. I
23 wrote the grants, I set up a variety of things.
24 My boss was the regional -- in the -- regional

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1 superintendent of schools. And so between the
2 two of us, we get that -- we put everything
3 together, and I ran the program so I certainly
4 did not have an HR title, but because I was
5 responsible for the program and all of the
6 people who worked in it, there were a lot of HR
7 duties. Does that make sense?

8 Q. Yes. And what are your duties at
9 Willert as an HR manager?

10 A. I typically tell people that if
11 it involves an employee in any way, shape or
12 form it involves me. So the life cycle of an
13 employee from the recruiting, interviewing,
14 hiring, to the discipline, termination, so
15 everything that's involved in between.
16 Enrolling of insurance, workers' comp, leave of
17 absence, general things that come up on a
18 regular basis, and I guess the best way to say
19 it is other duties as assigned, such as COVID.

20 Q. That's a lot?

21 A. Yeah.

22 Q. How many -- plus or minus. I
23 don't need an exact number. If you do, I'll be
24 impressed.

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1 How many employees does Willert
2 have?

3 A. Approximately 250.

4 Q. Does that include the Shanghai
5 operation or is that just state-side.

6 A. Just state-side, because I don't
7 have any responsibilities for the Shanghai
8 location.

9 Q. Who's responsible at Willert for
10 making sure that it's compliant with all
11 antidiscrimination laws?

12 MS. FICARO: Objection to form.
13 You can answer.

14 THE WITNESS: I'm sorry.

15 MR. AUERBACH: Our court
16 reporter, could you please read that back.

17 - - -

18 (Whereupon, the pertinent portion
19 of the record was read.)

20 - - -

21 MS. FICARO: I objected to the
22 form but said you can answer.

23 THE WITNESS: Okay. I'm sorry.
24 I knew Eileen said something. Quite honestly, I

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1 think there are several people who are involved
2 in that process. I think that because I am over
3 HR that a lot of people would say that it is my
4 responsibility, but as I make sure that a lot of
5 people know, we're all in this together. And I
6 can coach, I can counsel. I do my part. I
7 encourage all those sorts of things, but we all
8 have to work together to make sure that every
9 employee is treated with respect.

10 Q. Does the buck stop with you in
11 terms of compliance with all antidiscrimination
12 laws?

13 MS. FICARO: Objection to form.
14 You can answer.

15 THE WITNESS: Yes.

16 BY MR. AUERBACH:

17 Q. What kind of training does
18 Willert give its plant managers to make sure all
19 antidiscrimination laws are followed?

20 A. Honestly, each person at Willert
21 is able to take their own training. They don't
22 have to go through me. I know that there is
23 training that folks have taken, that folks do
24 take. Outside training, in most instances, is

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1 not something that we are requiring. We do
2 provide the general internal training. And as
3 I'm involved with various conversations with
4 people, I make sure that that's part of so many
5 conversations that I have with people. So kind
6 of an ongoing issue. Not something that's
7 handled at one -- oh, here today I'm going to
8 talk about this, then never again.

9 Q. What did you mean by the word
10 general internal training?

11 A. Because the general aspect is
12 that it's not just for one person. The internal
13 aspect is that they're not going outside. So,
14 for instance, I mentioned aspects of training
15 through SHRM for myself. So internal training
16 versus external training, general meaning, it's
17 going to be done with everybody and specifically
18 to what they're dealing with. So our plant
19 manager is going to be getting information from
20 a lot more points than what a supervisor who is
21 only over five people.

22 Q. Do you know whether or not
23 Willert gave Jack Bonsky antidiscrimination
24 training?

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1 **A. I do not.**

2 **Q. Did he receive antidiscrimination**
3 **training by Willert?**

4 **A. I do not know.**

5 **Q. In the six years that you've been**
6 **with Willert, have you made Jack Bonsky attend**
7 **antidiscrimination training?**

8 **MS. FICARO: Objection to form.**
9 **You can answer.**

10 **THE WITNESS: Externally, no.**
11 **Internally through conversations that I have had**
12 **with him, that is the only thing that I know of,**
13 **so --**

14 **BY MR. AUERBACH:**

15 **Q. What type of conversations have**
16 **you had with Jack Bonsky about**
17 **antidiscrimination matters?**

18 **A. As I mentioned earlier, when**
19 **anybody is calling me from Pennsylvania and**
20 **asking a question about item X, here's what we**
21 **have going on, I always will handle it from the**
22 **point of view of -- all right. So let me make**
23 **sure I know the entire situation so I ask a lot**
24 **of questions, get as much detail as what I**

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1 possibly can and then what's been done, you
2 know, what's been said, what's the history,
3 those sorts of things, and then it becomes a
4 matter of, all right, so legally we need to be
5 aware of this and we need to take these steps
6 and what is anybody else saying and what has
7 happened to anybody else. So it's very
8 important that we have consistency. I think one
9 of the issues that comes into play when you're
10 talking about discrimination is when -- if
11 you've got Tom, Dick and Harry and you treat
12 Tom, Dick and Harry all differently, that's when
13 you come into problems. And so it's important
14 to learn what's going on with everyone else,
15 making sure and providing that education of,
16 okay, so the laws say this, we have to do this,
17 have we done this, and in being consistent, we
18 need to do this. If it's never happened before,
19 okay, do we need to put a policy in place, is it
20 that important that it requires a policy, is it
21 just going to be a general practice because
22 consistency is key.

23 Q. I want to be fair in this
24 question. That's -- that is my intent, and I --

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1 this is what I heard you say. And if I'm
2 completely off base, I ask that you correct me.

3 What I'm hearing you say -- and
4 I'm just trying to understand -- is these
5 conversations that you're talking about, they're
6 after-the-fact conversations.

7 Is that what you're talking
8 about; someone's coming to you with an issue?
9 You are not talking about prophylactic,
10 preventative care?

11 MS. FICARO: Objection to form.
12 You can answer if you can.

13 THE WITNESS: There are -- I
14 would say it happens both ways, and some of that
15 depends upon what the situation is because I
16 guarantee you even though I've been doing HR
17 stuff for a long time, I haven't heard it all,
18 and I can't provide instruction on something
19 that I've never dealt with. So I will give
20 advice and give information in as much advance
21 notice as what I can, but for those instances
22 that seem to -- life provides, yeah, it has to
23 be after the fact because -- I mean, for
24 instance, with COVID and everything that has

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1 happened and all the things that have continued
2 to change and evolve, anything that we started
3 to put in place back in February has changed
4 many times because we didn't know how it was
5 going to evolve and we didn't know what was
6 going to happen. So when I am able to provide
7 information ahead of time, yes, that is done
8 but, unfortunately, you can't plan for
9 everything.

10 **BY MR. AUERBACH:**

11 Q. And when you say give information
12 -- and I appreciate no one could have
13 anticipated COVID. And you had to roll with the
14 punches and give information after the fact. I
15 appreciate that.

16 But when you use the words before
17 the fact, perhaps you didn't use those words --
18 and maybe I'm misremembering -- that's -- do you
19 mean by that general guidance in terms of
20 situations that a manager will face?

21 A. Are you talking about the
22 conversations that happened after the fact? Is
23 that what --

24 Q. No. Before. Do you recall any

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1 conversations with Jack Bonsky about any
2 antidiscrimination matters, general guidance
3 that you gave before an issue arose?

4 **A. No, but I do know that Bryan**
5 **Willert and Brian Warner were having numerous**
6 **conversations with him. They were more involved**
7 **with him early on than I was. I cannot speak to**
8 **what those conversations were.**

9 Q. Who is Brian Warner?

10 **A. He's our CFO.**

11 Q. And Bryan Willert, is he the
12 owner?

13 **A. He is one of the owners.**

14 Q. Who are the other owners?

15 **A. Bill Willert.**

16 Q. Bill Willert?

17 **A. Yes. His legal name is William,**
18 **but he goes by Bill.**

19 Q. Other than Bryan and Bill
20 Willert, any other owners that you are aware of?

21 **A. Just their spouses are minor**
22 **owners.**

23 Q. So this is a family business?

24 **A. Yes.**

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1 Q. What kind of supervision does
2 Willert give over its plant managers to make
3 sure that no discrimination takes place on its
4 premises?

5 A. I would be speaking out of turn
6 to answer that fairly, because I don't know.
7 I'm not privy to all of their conversations, so
8 I'm not going to put words in their mouth.

9 Q. What steps do you take to make
10 sure that your plant managers don't discriminate
11 against its employees?

12 A. So with the plant manager in
13 Kenova and St. Louis, they were in place before
14 I arrived, and so it was introducing myself and
15 I've made trips down to Kenova to make sure that
16 that plant manager and I established a
17 relationship. Obviously, I'm here in St. Louis,
18 so I have a relationship with the plant manager
19 here and we just have regular conversations.
20 Yeah, without a doubt several e-mails of here's
21 the situation, please call me. And a lot of
22 times they're very brief e-mails, and it will
23 just say please call me ASAP.

24 Q. What -- I'll be more specific.

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1 What steps do you take or have
2 you taken to make sure that Jack Bonsky doesn't
3 discriminate against his employees?

4 MS. FICARO: Objection to form.

5 THE WITNESS: So with Jack,
6 initially, when he was hired, it was -- there
7 were way more conversations in probably the
8 first month that he was there, might be three
9 weeks that Bryan and Brian were having with
10 Jack. And once Jack had been there for a few
11 weeks I had a verbal introduction through Ed
12 Kennet, and at that point, then, we -- we've had
13 conversations periodically on a variety of
14 topics and sometimes it'll be here's what's
15 going on, sometimes it'll be, hey, I just want
16 to keep in touch, so just periodic. I have not
17 yet met him. The only ones who are flying out
18 there are Bryan and Brian. So once we're past
19 the COVID hump and we're actually traveling,
20 then I will be out to Pennsylvania again. I've
21 not been to Pennsylvania or Kenova since all of
22 this, so I look forward to actually meeting him
23 at some point.

24 BY MR. AUERBACH:

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1 Q. So fair statement that you've
2 only had informal conversations with him?

3 MS. FICARO: Objection to form.

4 THE WITNESS: Correct.

5 BY MR. AUERBACH:

6 Q. Have you ever reviewed any of his
7 plant practices and procedures to make sure that
8 he doesn't discriminate against his employees?

9 A. I've never seen anything in
10 writing.

11 Q. But have you had -- during your
12 informal conversations, have you ever discussed
13 his policies and procedures to make sure that he
14 doesn't discriminate against his employees?

15 MS. FICARO: Objection to form.

16 THE WITNESS: Yes.

17 BY MR. AUERBACH:

18 Q. When have you had those
19 conversations?

20 A. I honestly couldn't give you
21 dates. I couldn't even give you time lines, but
22 as things have happened in the plant or if
23 changes are coming, then we will have those
24 conversations.

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1 Q. And what kind of conversations
2 have you had with Jack Bonsky about the changes
3 that were coming?

4 A. So, as an example, when it was
5 known that there was going to be a lot of hiring
6 that was going to need to be done at the
7 facility, then we started having conversations
8 about, so, what's going on. And, honestly,
9 Debbie was also involved in those conversations.
10 She is HR out in Pennsylvania, and it's
11 important that all three of us are on the same
12 page. So we would just talk about so what are
13 we doing, they give me their ideas, and quite
14 honestly, they had some great ideas. They'd run
15 them past. Here's what we're going to do, what
16 are you guys doing in St. Louis, how does this
17 compare because we just need to make sure that
18 we're not doing two completely different things.
19 Even though it's the same company, we need to be
20 consistent.

21 Q. What do you mean by that? What
22 was your concern in terms of doing two different
23 things?

24 A. It's not a concern. It's really

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1 when you talk about being proactive versus
2 reactive. If I wait until they've done all the
3 hiring and then say, oh, that's not how we do it
4 in St. Louis, then shame on me. So it's --
5 talking to them about here's what's gone on in
6 St. Louis, here's how we've done things, is that
7 something that can work or will work in
8 Pennsylvania, what is your situation there, how
9 quickly are you hiring, you know. It's just
10 making sure that we're all aligned.

11 Q. In line (sic) in terms of what?

12 A. Aligned.

13 Q. Aligned, yes. In terms of what?

14 A. In terms of practices. So if I
15 am hiring -- well, I -- here in St. Louis we
16 have a very diverse workforce and we look for
17 that. So one of the things that was discussed
18 was what are -- what avenues are there in the
19 Douglassville area so that you can be hiring a
20 diverse workforce. That is something that the
21 Willert's want. That's what we put in the
22 practice here. So here are the places here in
23 St. Louis that I use, do you have any place like
24 that in Douglassville. And that makes sure that

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1 **both areas are looking to hire a diverse**
2 **workforce.**

3 Q. And did the Douglassville
4 location end up hiring a diverse workforce?

5 A. We -- yeah, definitely. It's not
6 as diverse as what St. Louis is because we have
7 -- yeah. In this -- I mean, we're in St. Louis.
8 You draw from what you've got and -- yeah, we
9 have quite a bit more diversity here than what
10 they do in Douglassville. If they were located
11 actually in Philadelphia, then I'm sure that
12 there would be even more of a diverse workforce,
13 but yes.

14 Q. Diversity means different things
15 to different people.

16 You would agree that that
17 includes race?

18 A. Oh, yeah.

19 Q. Does your -- does your term of
20 diversity in workforce also include gender?

21 A. Yeah.

22 Q. Does it include handicapped
23 people?

24 A. Yes.

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1 Q. Does it include medical marijuana
2 patients?

3 A. Yes.

4 Q. Does Willert presently -- to your
5 knowledge, does Willert presently employ any
6 medical marijuana patients?

7 A. Not that has been brought to my
8 attention, no.

9 Q. So to your knowledge,
10 Mr. Reynolds was the only medical marijuana
11 patient?

12 A. Yes.

13 Q. In the six years you have been
14 with the company, have you been involved, in any
15 capacity, in formulating or crafting any
16 antidiscrimination policies?

17 A. No.

18 Q. Has anyone else at Willert, in
19 the six years you've been with the company, been
20 involved with formulating or crafting
21 discrimination policies?

22 A. No.

23 Q. In the six years you've been with
24 Willert, are you aware of any policy --

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1 antidiscrimination policies that change
2 throughout the year?

3 A. In the last year I've been
4 working on a wide variety of policies, so they
5 have not come to -- they have not been
6 finalized, but I'm working on them.

7 Q. What types of policies are you
8 working on creating?

9 A. Well, the overall view of this is
10 to create a brand new rules and guidelines book.
11 We'll have one for each of the locations, and
12 then we have to have one that is specific to
13 unions. And it's looking at all of the policies
14 that are currently in there as well as ones that
15 are missing, that weren't even considered when
16 the last one was put together. So, for
17 instance, we're manufacturing and no one thought
18 to have a work-from-home policy until the last
19 year happened.

20 Q. Understood. Are you updating any
21 of your policies on medical marijuana?

22 A. That will be part of the new
23 substance abuse policy that we are working on.

24 Q. What do you anticipate the new

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1 policy to be?

2 A. I'm sorry?

3 Q. What do you anticipate the new
4 policy will be on medical marijuana?

5 A. Each of the states have different
6 conditions, which is why we will not have just
7 one rules and guidelines book. To include one
8 medical marijuana policy with all of the
9 different conditions would be stupid on my part.
10 So Kenova, West Virginia, doesn't have that.
11 Well, yet. Not in the sense that Pennsylvania
12 does. So Pennsylvania is very different than
13 the others, so I'm starting out with the crux of
14 the substance abuse policy as what it is now and
15 then looking at the state and what are the
16 conditions. I'm also looking at what's coming
17 down the pike to see if there is anything that
18 is changing. So Missouri, for instance, has
19 been -- there's been a lot of talk about what
20 we're going to do and so -- yeah. What do I
21 include, what do I anticipate. The final draft
22 of any of the policies are going to be reviewed
23 by our lawyers to make sure that I've not missed
24 anything in terms of the state laws. So I know

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1 that does not give you specifics, which is
2 probably what you want, but I do not want to
3 speak to something that has not been finalized
4 and put out there for all of the employees yet.
5 That would be speaking out of turn.

6 Q. I understand. I certainly don't
7 want you to speak out of turn. In fact, I only
8 want you to speak in turn, in terms of things
9 you know about.

10 Have you ever been involved in
11 any capacity in administering training on
12 antidiscrimination policies at Willert?

13 MS. FICARO: Objection on form.

14 THE WITNESS: Do I answer?

15 MS. FICARO: Yes, you can answer.

16 THE WITNESS: Okay. Every time
17 that I hire someone there is a discussion on
18 what we firmly believe here at Willert and what
19 I know that the Willerts expect of all of the
20 employees. Bill Willert started many, many
21 years ago bringing in a workforce that was not
22 all going to look the same, and it's important
23 to the Willerts to make sure that everyone is
24 treated with respect. And I have a very

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1 in-depth conversation with all of the new hires,
2 and periodically with employees, about respect
3 and what that means in the workplace. And I
4 know that you specifically asked me about
5 discrimination, but my viewpoint and how I put
6 it to everybody is that when there is respect,
7 you don't have those other issues. I cannot
8 treat you with respect and discriminate you at
9 the same time, I cannot treat you with respect
10 and be using profanity or harass you or any of
11 those other things, and I go into those details.
12 And I know that is the expectation of the
13 Willerts, and so I make sure that everybody,
14 regardless of their position here, understands
15 the expectations are to treat others with that
16 respect and, therefore, create an environment
17 that's going to be free from all of those things
18 that none of us wants, including discrimination.

19 BY MR. AUERBACH:

20 Q. And have you been -- I understand
21 your position on respect.

22 Have you been involved in any
23 kind of training at Willert on wrongful
24 termination?

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1 A. How I have provided the training
2 to the supervisors, I don't call it wrongful
3 termination. What I talk to the supervisors
4 about is being a good supervisor and what is
5 involved in being a good supervisor. So, for
6 instance, a good supervisor -- and back -- I
7 just was having this discussion earlier this
8 morning. A good supervisor is keeping notes
9 about the good and the bad of employees and
10 having conversations, having coaching sessions,
11 however you want to phrase it about, hey, great
12 job, I know you've been struggling with this,
13 that was -- that was great, and I really
14 appreciate it. But on the flip side, hey, your
15 attendance is not where it needs to be, here's
16 our expectations. You don't wait until you're
17 at your boiling point to then have a discussion
18 about the issues and terminating somebody. A
19 wrongful termination only happens when you've
20 been waiting for three years and you never said
21 anything to the employee and then all of a
22 sudden after three years of the employee doing
23 this then you terminate. So why would I -- why
24 would I focus on wrongful termination when

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1 everything that I'm here for is to make sure
2 that things are done right.

3 Q. Are you involved, in any
4 capacity, in making sure that Jack Bonsky
5 follows the law?

6 A. Yes.

7 Q. What is your involvement in
8 making sure that Jack Bonsky follows the law?

9 A. Again, the items that I have just
10 talked about in terms of the respect, and how to
11 treat the employees, about the documentation,
12 things along those lines. We've had those
13 conversations, but when I hear anything -- and
14 this is not just with Jack. This could be with
15 anybody who is in a supervisor capacity at any
16 of the locations -- if I hear something of an
17 issue I have an obligation to make sure that
18 that is addressed. There are a variety of ways
19 that it can be addressed, depending upon the
20 situation with Mr. Bonsky because he is in
21 Douglassville and partly because I've not met
22 him yet. I have a conversation then with Bryan
23 Willert and make him aware of anything that I
24 might have heard, good or bad. Hey, Bryan, just

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1 want you to be aware of this. And if it is
2 something that needs correcting, then my next
3 question to Bryan is, is this something you want
4 me to handle or would you like to handle it, and
5 we go from there.

6 Q. Ms. Gillette, I'm going to ask
7 you a yes or no question. And if there's a need
8 for elaboration, we'll handle it afterwards.

9 Prior to October 2020, did you
10 ever discuss with Mr. Jack Bonsky about the
11 Pennsylvania Medical Marijuana Act?

12 MS. FICARO: Objection to form.

13 THE WITNESS: No.

14 BY MR. AUERBACH:

15 Q. Prior to October 2020, did you
16 ever discuss with Mr. Jack Bonsky about medical
17 marijuana patient discrimination?

18 MS. FICARO: Objection to form.

19 You can answer.

20 THE WITNESS: Sorry for the
21 delay. No.

22 BY MR. AUERBACH:

23 Q. Prior to October 2020, did
24 Mr. Jack Bonsky receive any training about

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1 medical marijuana patient discrimination?

2 **A. I don't know.**

3 Q. Prior to October of 2020, did you
4 give Mr. Jack Bonsky any training on medical
5 marijuana discrimination?

6 **MS. FICARO: Objection to form.**

7 **THE WITNESS: No.**

8 **BY MR. AUERBACH:**

9 Q. I'm aware of three Willert
10 plants: one in Pennsylvania, one in West
11 Virginia one in Missouri.

12 Did I miss any?

13 **A. No, other than Shanghai.**

14 Q. And you had said that St. Louis
15 is your base?

16 **A. Yes, headquarters.**

17 Q. That's where you live, obviously?

18 **A. I don't live in St. Louis, but I**
19 **work here.**

20 Q. But you live in Missouri?

21 **A. I live in Illinois.**

22 Q. How far of a commute do you have?

23 **A. All depends on the bridge**
24 **traffic, but it's typically 35 to 40 minutes.**

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1 Q. When we're done, I'm going to
2 have to look at a map just so I can get
3 oriented.

4 And because you work in Missouri
5 and for a company that has a base in Missouri or
6 headquarters in Missouri, you are aware Missouri
7 has a Medical Marijuana Patient Act?

8 A. Yes.

9 Q. And you are aware that West
10 Virginia is a state that also has a Medical
11 Marijuana Act?

12 A. Yes.

13 Q. And you're aware, obviously, that
14 Pennsylvania has a Medical Marijuana Patient
15 Act?

16 A. Yes.

17 Q. So you're aware that 100 percent
18 of your US operations have states with Medical
19 Marijuana Acts?

20 A. Yes.

21 Q. And as of right now, your company
22 doesn't have any policies or procedures to
23 protect medical marijuana patients?

24 A. Correct.

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1 Q. If someone -- if one of your
2 plant branch managers were to call you and say I
3 have a patient -- and this happens today -- I
4 have a patient -- I have an employee who just
5 showed me a medical marijuana patient card,
6 what's your next step?

7 MS. FICARO: Objection to form.

8 THE WITNESS: Can I answer?

9 MS. FICARO: Yes, answer. If you
10 can, answer.

11 THE WITNESS: My first question
12 would be why did he or she show you the card,
13 because it doesn't seem like somebody would just
14 walk up to you and say, oh, hi. Look what I
15 have, so, yeah. In my experience, anytime that
16 somebody is coming up and volunteering something
17 that's unique, there's got to be a reason for it
18 so I'd say what happened, fill me in and then
19 what would happen next would determine what I
20 would do. What he -- he would say would
21 determine what I would do.

22 BY MR. AUERBACH:

23 Q. And what are the range of
24 outcomes that you would do based on that

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1 information?

2 A. For sure I would get down to the
3 nitty-gritty of -- I mean, did this person get
4 hurt, is that why they're telling you, you know,
5 that they just cut their finger off and they're
6 like oh, well, maybe you should know I have a
7 medical marijuana license. You know, so if it's
8 something bad, well, let's get through the
9 injury, make sure that everything is taken care
10 of, make sure that this person gets the medical
11 care and medical treatment, okay, do we have all
12 the paperwork filled out, everything else.
13 Because you have to deal with the crisis first.
14 Once we have dealt with the initial crisis and
15 everything that goes along with the workplace
16 injury -- and I'm just using that because that's
17 the example that I started out with -- then I
18 start looking at, okay. So this person has a
19 medical marijuana license, we're going to have
20 to see if this -- in this situation this has any
21 implication with the workers' comp insurance.
22 It might. And then we start having
23 conversations about what are the implications
24 for the facility as a whole, what do we need to

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1 be putting in place, what procedures, what
2 practices, what policies. And so there's a huge
3 trickle-down effect as to what started it and
4 where we end up being.

5 Q. Can you envision a scenario that
6 does not result in a termination for a Willert
7 employee who is a medical marijuana patient?

8 A. Yes.

9 Q. What would be an example of that?

10 A. Well, I'll use the example that
11 -- I'll just continue with the example. So this
12 person's finger got cut off. So at that point
13 we know that they're a medical marijuana user.
14 In our investigation, we find out that, I don't
15 know, it got cut off because -- can't even think
16 of how it would get cut off -- but it was of no
17 fault of their own kind, it was kind of one of
18 those freak accidents that do happen and we do
19 get a copy of the medical marijuana license. At
20 that point, the license had nothing to do with
21 the incident, their performance as an employee
22 has been good up to that point and that would be
23 a key factor.

24 So if they've been a great

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1 employee it's not, you know, day one on the job,
2 so to speak, we have a history, then I think
3 that at that point in time we would definitely
4 keep them as an employee, but that would also
5 factor in to any policy or procedures that would
6 be put in place as a result of that incident.

7 Q. Willert has a zero tolerance drug
8 policy; does it not?

9 A. For pre-hire, yes.

10 Q. Do you recall approximately when
11 this policy was created?

12 A. It was before I was here.

13 Q. Has it been updated in any
14 meaningful sense since you have been there?

15 A. I am working on it now. Again,
16 as discussed earlier, taking a look at the
17 different laws, I'm updating all the policy.
18 This is just part of it, yes.

19 Q. Ms. Gillette, were I to represent
20 to you that Pennsylvania legalized medical
21 marijuana in 2016, would you have any reason to
22 doubt or dispute that assertion?

23 A. Honestly, I know that the law in
24 Pennsylvania has gone through a few revisions,

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1 and I don't know the years that they happened so
2 that would be my question, was the 2016 part.
3 So in terms of the doubt, it was just -- I know
4 that it's happened. I don't know what year.

5 Q. But this drug policy hasn't
6 changed since Pennsylvania legalized medical
7 marijuana?

8 A. Correct.

9 Q. Any reason?

10 A. Well, we did not acquire
11 Pennsylvania -- we didn't have them in 2016.

12 Q. You acquired Pennsylvania in
13 2019?

14 A. '19, yes.

15 Q. Any reason why it didn't update
16 its policy since 2019?

17 A. Updating the policy was --
18 unfortunately, that was my major goal for last
19 year, and then COVID happened. So last year
20 after acquiring Pennsylvania is when it would
21 have initially been modified and have been put
22 in place. And once COVID happened and --

23 - - -

24 (Whereupon, an off-the-record

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1 discussion occurred.)

2 - - -

3 THE WITNESS: Once COVID happened
4 everything changed for me, and I had three
5 states with employees living in an additional, I
6 believe, five states and my focus had to change
7 on learning everything that I could about what
8 the CDC was requiring, what each state was
9 requiring, and in some instances, the county was
10 requiring, making sure that we put practices in
11 place to physically keep our employees safe from
12 being exposed to the pandemic at work because
13 all of our facilities stayed open.

14 So updating the rules and
15 deadlines took a very distant second place to
16 making sure I kept my employees safe and
17 protected them from potentially getting a lethal
18 virus.

19 BY MR. AUERBACH:

20 Q. Ms. Gillette, I -- I do
21 understand that.

22 So just to summarize what I heard
23 you say is, it had been on the docket to update
24 these drug policies, but when COVID hit, COVID

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1 had to be the priority?

2 A. Correct.

3 MS. FICARO: Objection to form.

4 BY MR. AUERBACH:

5 Q. When did you start the process of
6 working on updating Willert's drug policies?

7 A. I actually started having
8 conversations in -- there we go -- there's some
9 training that I had started going to in 2019,
10 was on handbook and information that needs to be
11 in handbook. So I started attending seminars
12 and webinars and looking up information and
13 started actually working on that in late 2019.
14 We have access to something that's called Think
15 HR, and so the -- it's the database that has the
16 policy -- has, like, a handbook. You can modify
17 it, you change it, you update it so that it --
18 it's not a generic handbook. So I actually
19 started that in 2019 and was working through
20 some of what they actually had in their part,
21 then I was going to be adding things that were
22 specific to states and specific to Willert.

23 Q. My question was specific to
24 medical marijuana.

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1 When -- on approximately what
2 date did you begin the process of updating
3 Willert's drug policies?

4 A. Honestly, I don't have a date and
5 I don't know if that's even something that I had
6 done much progress on. I really have to look at
7 what I had gotten. As I said, it's kind of like
8 you can buy to do or you can -- you know, if you
9 want to write a blog, you can look up that
10 information, it can help you out and you fill in
11 the missing pieces, you update, you put in your
12 titles and that sort of thing, and that's kind
13 of what Think HR has for their handbook. So I
14 started at the beginning of that handbook and
15 was working my way through while I was attending
16 the webinars and the seminars and looking up
17 that information, and I -- I don't know --
18 honestly, I don't know if the substance abuse
19 and medical marijuana had been modified at that
20 point. I just don't know.

21 Q. In 2019, did you know that
22 Willert needed to update Pennsylvania's medical
23 marijuana drug policies?

24 MS. FICARO: Objection to form.

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1 THE WITNESS: I'm okay to answer
2 this?

3 MS. FICARO: Yes.

4 THE WITNESS: I knew in 2019 that
5 all locations' policies needed to be updated,
6 not just Pennsylvania.

7 BY MR. AUERBACH:

8 Q. Did you have any conversations
9 with anyone at Willert that the drug policies
10 needed to be updated?

11 A. Again, I knew that every policy
12 -- I did not specifically say that there's one
13 policy and only one policy that has to be
14 updated. My conversation was I need to update
15 the handbook and every policy that we have in
16 the company.

17 MR. AUERBACH: Okay. I did
18 promise you a bathroom break, so let's take that
19 now so we can do that. I have 12:14. Can we be
20 back at 12:19?

21 - - -

22 (Whereupon, a brief recess was taken.)

23 - - -

24 BY MR. AUERBACH:

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1 Q. Ms. Gillette, did you have any
2 conversations about Mr. Reynolds' allegations
3 during our break?

4 A. No, I did not.

5 Q. Okay.

6 A. The only ones I talked to were
7 our construction guys.

8 Q. Does Willert have any policies to
9 ensure equal employment opportunities for
10 medical marijuana patients?

11 A. We have a general Equal
12 Employment Opportunity clause that does not
13 specifically state that it applies solely to
14 medical marijuana, but it's EEO for all.

15 Q. And does your -- I understand
16 that doesn't state the word medical marijuana
17 patient, but does your antidiscrimination policy
18 apply to medical marijuana patients?

19 A. Yes.

20 Q. Did it apply to patients --
21 medical marijuana patients in November of 2020?

22 A. Those that we knew of.

23 Q. Again, you are not a lawyer. I'm
24 not asking you for a legal definition. I'm

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1 asking you for your understanding of the term.

2 What does the term medical
3 marijuana patient discrimination mean to you.

4 **MS. FICARO: Objection to form.**
5 **You can answer.**

6 **THE WITNESS: So, obviously, the**
7 **medical marijuana patient is someone who has a**
8 **legal right to a legal prescription from a**
9 **doctor to be able to use it for whatever the**
10 **medical purpose is, and discrimination would be**
11 **if you look at somebody, and based solely and**
12 **only on that factor, you make a decision about**
13 **them.**

14 **BY MR. AUERBACH:**

15 Q. You've never met Mr. Reynolds;
16 have you?

17 A. **That is correct.**

18 Q. Have you ever spoken to him on
19 the phone?

20 A. **No, I have not.**

21 Q. So you've never seen him under
22 the influence of any drugs?

23 A. **I have never seen him period.**

24 Q. And you are not aware of any

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1 complaints that he was high on the job?

2 A. That he was high on the job; is
3 that what you said?

4 Q. Yes. Intoxicated. Under the
5 influence of marijuana on the job.

6 A. I had never heard that.

7 Q. When did you become aware that
8 Mr. Reynolds had failed his drug test?

9 A. I don't know what the date was,
10 but I believe it was the same date of the
11 termination.

12 Q. How did you become aware that
13 Mr. Reynolds had failed his drug test?

14 A. I received a phone call from
15 Mr. Bonsky.

16 Q. And what did Mr. Bonsky tell you?

17 A. That Mr. Reynolds had tested
18 positive for marijuana, and then I believe his
19 next question was what do we do now.

20 Q. How did you answer that question?

21 A. Well, I hadn't seen any
22 documentation, and so I asked him to send it to
23 me. So while we were on the phone, he then
24 forwarded the information to me so that I could

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1 review it. So bit of a pause so that I could
2 take a look at it, kind of had a discussion
3 about -- you know, I asked if Matt had said
4 anything to him, because Matt would have heard
5 something before we did. So I asked if Matt had
6 said anything, and he said that Matt had not
7 been to work the day before or that day and so
8 he had not -- Matt had not said anything. So I
9 mentioned about what our practice is of a
10 positive result being termination or actually
11 that was considered the pre-hire so, you know,
12 just -- we wouldn't have hired him, and I said
13 but let me talk to Bryan Willert. And the
14 reason I said that is because it has been
15 practice almost from the time that I got here,
16 that anytime that we're doing a termination that
17 Bryan wants to know before it happens. So
18 that's just standard practice. The only time
19 that we don't have to let him know -- actually,
20 no. There's no time. We have to let him know,
21 regardless of the reason. If he's on vacation,
22 we still have to get ahold of him. So I needed
23 to discuss it with Bryan and said that we would
24 talk after I was able to talk with Bryan.

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1 Q. You did speak with Bryan?

2 A. Yes.

3 Q. And what did you tell Bryan?

4 A. I told him what Jack had told me.

5 I actually printed out the result and took it
6 into Bryan. Again, that would have been kind of
7 a normal thing. And, you know, at that point in
8 time it just -- anytime that something --
9 regardless of what it is, if it's something that
10 we don't want to happen, then Bryan and I are
11 both kind of like, uh, why, kind of thing. And
12 so, you know, I mentioned about what our policy
13 is and, again, it kind of came up of, well, why
14 was this not done ahead of time and -- you know,
15 an oversight, and so I, you know, made him aware
16 of that and, you know, reminded him, hey, this
17 is -- we would not have hired him if we'd known
18 about a positive test. And he said it -- at
19 that point he said that -- he goes, well, we
20 need to follow practice. You know, Matt had
21 only been with us, I think at that point, two
22 weeks, somewhere around there. He said that
23 there had been some other issues as well. And
24 so because of everything and the fact that he is

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1 a new hire, that we would go ahead and terminate
2 him.

3 Q. Did you or Bryan, at that point,
4 inquire as to why Mr. Reynolds had failed the
5 drug test?

6 A. I never do. It's -- there's a
7 standard practice for drug testing, and I don't
8 inquire why somebody fails. That's already been
9 done.

10 Q. What is that standard practice
11 for drug testing?

12 A. So when someone takes a drug
13 test -- if I were to go take a drug test, when I
14 get there, they're going to ask me if there's
15 any type of prescription that I'm on. So, for
16 instance, I'm on thyroid medication, so I would
17 indicate, hey, I take thyroid medication, here's
18 my dosage and, you know, I would do that even if
19 it's, you know, something that's over the
20 counter, cranberries, for instance, vitamin D,
21 those sorts of things. They ask you what it is
22 that you're taking and if you have a
23 prescription. And then you provide your sample
24 and that's pretty much it for the drug test at

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1 that point in time. We always ask for a split
2 specimen to be done, which means they split it
3 in half, they test half of it and hold onto the
4 other half. So if somebody comes up positive,
5 then the split specimen, because this is just
6 going to be a rapid, so kind of dip test, so to
7 speak, if it comes up positive for anything,
8 then it is sent off for further evaluation.
9 Depending upon the agencies, some agencies will
10 send the notice to the company stating that it
11 has been sent out for further testing because
12 that explains why you don't have the initial
13 results. Not all companies do that. When it
14 goes out for further testing, it's not just
15 another dip test, but there is further -- I
16 don't know what all is involved, but I know that
17 there's more testing if they're involved in the
18 process.

19 In addition to just the testing
20 of the specimen, itself, the medical review
21 officer actually will have a conversation with
22 that person. And -- so in my instance, they
23 would say, you know, you identified that you
24 take thyroid medication. You know, do you take

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1 anything else, you came up positive for
2 marijuana so, you know, we're looking for any
3 reason why you might have this positive result.
4 And that could be any type of medication. They
5 would ask me what I had eaten recently because
6 sometimes that can produce -- that can impact
7 the test. So the medical review officer's
8 actually looking for any reason to validate why
9 the result would be positive, and you'd have
10 that conversation if there was something that I
11 had a prescription for. So let's just say that
12 I had dental work and been given a prescription
13 and that's why I turned up positive for
14 something. They would want to have a copy of
15 that prescription to prove that it's actually my
16 prescription and not someone else's and to prove
17 that it's current so the prescription, you know,
18 for whatever it is I'm taking is not
19 three-years-old. Once they would receive any
20 validation, then my experience has been at that
21 point in time if there's a reason why this
22 person tested positive, then the company at that
23 point in time receives a negative result. If
24 there is no validation as to why it is legally

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1 okay, then the company receives the positive
2 results, but that is after all of that has
3 happened with the medical review officer. And
4 so the final results don't come specifically
5 from the agency who did it but the final results
6 come from the medical review officer.

7 Q. And you are not -- you, yourself,
8 are not a medical review officer?

9 A. No. Oh, God. No.

10 Q. And you are not a toxicologist?

11 A. Oh, correct.

12 Q. And you do not work for Pottstown
13 Hospital?

14 A. No.

15 Q. So fair to say you don't know --
16 you don't have any firsthand knowledge of how
17 Pottstown Hospital handles their drug test?

18 MS. FICARO: Objection to form.

19 THE WITNESS: Am I okay to
20 answer?

21 MS. FICARO: You can answer.

22 THE WITNESS: Okay. I don't
23 specifically know how Pottstown handles it, but
24 I know from all the places that I have worked,

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1 **using different places for testing, the testing**
2 **procedures are the same.**

3 **BY MR. AUERBACH:**

4 Q. And in your experience, when
5 someone is given a drug test which includes a
6 battery for methamphetamine, if that person is
7 on a stimulant ADD medication, will they test
8 positive or not for methamphetamine?

9 A. I don't know. I don't know how
10 any specific drug is going to show up in a drug
11 test. I'm not a doctor.

12 Q. In your experience, if someone
13 has a prescription for some kind of
14 methamphetamine drug and shows the medical
15 review officer the valid prescription, will
16 their drug results indicate a positive or a
17 negative?

18 **MS. FICARO: Objection to the**
19 **form. You can answer.**

20 **THE WITNESS: To my knowledge, if**
21 **there is a legal reason for them to be taking**
22 **any medication that is current, we would receive**
23 **a negative.**

24 **BY MR. AUERBACH:**

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1 Q. And that would be for an FDA
2 approved federally licensed medication?

3 MS. FICARO: Objection to form.
4 You can answer.

5 THE WITNESS: I guess. I say it
6 that way because -- you know, let's say for
7 instance -- I don't know -- if I drank -- and I
8 don't know if this happened or not. We'll be
9 clear about that. But if I'm drinking lots of
10 sports drinks that's not FDA approved and I
11 don't know if it shows up in your blood, but if
12 it did, you know, I -- yeah, I don't know how to
13 answer that then, so --

14 BY MR. AUERBACH:

15 Q. What is -- what is your knowledge
16 of Pottstown Hospital's procedures when an
17 individual presents a medical marijuana card?

18 A. I don't have that knowledge.

19 Q. So you don't know whether or not
20 an individual who submits to a test who is a
21 medical marijuana patient presents the card if
22 the results would come back positive or
23 negative?

24 A. That has -- any testing needs to

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1 be authorized by somebody local. And prior to
2 the acquisition, they had somebody who is
3 already established as the contact with
4 Pottstown, and so they had -- they had those
5 procedures on hand.

6 Q. Would that have been Dave Furno?

7 A. Furno, yes.

8 Q. When you look at a drug test, are
9 you able to determine whether or not an
10 individual is a medical marijuana patient?

11 A. No. I should never know that
12 from the drug results that I'm given. The only
13 reason I would know that is if that person who
14 took the drug test told me.

15 Q. Okay. Now, you were told that
16 Mr. Reynolds was a medical marijuana patient;
17 were you not?

18 A. After he was terminated.

19 Q. Who told you this?

20 A. When Mr. Reynolds was terminated,
21 he informed Mr. Bonsky.

22 Q. How do you know he told
23 Mr. Bonsky?

24 A. Because after the conversation

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1 that the two of them had, Mr. Bonsky called me
2 up and said here is what Mr. Reynolds told me.
3 He told me he is a medical marijuana user.

4 Q. And what did you do with that
5 information?

6 A. I asked if he knew that ahead of
7 time or if anybody knew that ahead of time, and
8 he said no, no one was told.

9 Q. But you were told right then and
10 there?

11 A. After he was terminated, yes.

12 Q. Was there anything stopping you
13 from revoking the termination?

14 A. No, because that was not --
15 that's what brought everything to a head, but
16 that was not the only item of consideration that
17 led to the termination.

18 Q. What other items led to the
19 termination?

20 A. Well, from my understanding --
21 actually, what I knew was there had been some
22 attendance issues with Mr. Reynolds, either
23 arriving late or not arriving at all, taking
24 items home with him that he was not supposed to

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1 take with him and there was an item that -- I
2 don't know the specific circumstances -- but he
3 either took something home or had something that
4 was going to be needed at the plant and he
5 didn't drop it off until after the shift was
6 over and, you know, he said he wouldn't be
7 there. He acknowledged that he had whatever it
8 was that was needed and said he would drop it
9 off sometime and it wasn't dropped off until
10 later. Those are the issues that I was made
11 aware of. I know that Mr. Bonsky and
12 Mr. Willert actually had other conversations
13 about other issues that I don't -- I don't know
14 the specifics of those and so I'm not going to
15 speak to those.

16 Q. And obviously you don't have
17 firsthand knowledge of Mr. Reynolds' attendance
18 issues or him taking anything home; you've only
19 just been told this by other people?

20 A. I've seen e-mails that
21 Mr. Reynolds sent.

22 Q. And did you become aware of these
23 attendance issues before you found out that he
24 had failed his drug test?

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1 A. I honestly don't remember what
2 the order was. I don't recall.

3 Q. You drafted Mr. Reynolds'
4 termination letter; did you not?

5 A. Yes, I did.

6 Q. Any reason why it didn't include
7 the attendance issues or the taking items home
8 with him in your letter?

9 A. Our practice at Willert is that
10 all employees -- I don't care what your position
11 is -- but all employees are brought in, I guess
12 you could say, on a probation. I don't know if
13 it's ever worded that way with somebody other
14 than in our union contract, but attendance --
15 what it says -- and I don't even know how many
16 times I have said this -- but attendance is the
17 biggest reason why people are not kept as a new
18 hire. When you are having attendance issues
19 within your first month, those are red -- that's
20 a huge red flag. And I did not have every
21 instance of exactly what time he arrived. I
22 mean, he didn't clock in, so I couldn't tell you
23 what time he got there or what time he left, any
24 of those things. I did know that there were

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1 attendance issues. When we're terminating
2 somebody as a new hire, typically I do not
3 include all the reasons in the termination
4 letter, but we state that we are terminating
5 them effective today, which is September 3rd,
6 then here's what's going to happen. So the fact
7 that we only stated the drug test, he already
8 knew the results of the drug test. It was -- it
9 was a positive result. And so to list the other
10 reason, in our opinion, wasn't necessary.

11 Q. Had he not failed the drug test,
12 would you have fired him November 5, 2020?

13 A. I don't know. The reason that I
14 say that is because you put in there -- in your
15 question November 5th, and I know that there
16 were issues. Would a termination have happened
17 on November 5th, would it have happened November
18 6th, the next week -- I'm not sure, but I do
19 know that because of the issues, it would have
20 led to termination.

21 Q. But you would agree with me that
22 before he became aware that he failed the drug
23 test you were not planning on firing him?

24 A. I know the word termination had

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1 not been mentioned, but typically the first
2 conversation that I have about a new employee
3 who has issues that first conversation is not,
4 well, are we terminating. That's never the
5 first conversation.

6 Q. Did anyone at Willert ask to see
7 Mr. Reynolds' marijuana card?

8 A. I don't know.

9 Q. Did you tell Mr. Bonsky to ask
10 for it?

11 A. I asked him if Matt had ever
12 shown anyone. So this was the day of the --
13 sorry about that -- after Jack's conversation
14 with Mr. Reynolds of the termination when the
15 medical marijuana was mentioned. Again, I asked
16 Jack if he ever told anybody, if anybody had
17 ever seen it, if there was any knowledge, and
18 nothing. Nothing had ever happened up until
19 that point.

20 Q. Was there anything stopping you
21 from asking Mr. Bonsky to get a copy of it?

22 A. At that point, because -- the
23 short answer is no, and that's because the --

24 Q. Would it --

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1 MS. FICARO: Excuse me, Steve.

2 She's not finished her answer.

3 BY MR. AUERBACH:

4 Q. Please. You can answer.

5 A. Because the positive result was
6 not the only reason for the termination, showing
7 us the medical marijuana license would not have
8 changed his being terminated.

9 Q. What were his attendance issues?

10 A. He would be arriving late or not
11 at all or even just I might be there, which --
12 you know, if someone is, let's just say, having
13 some car issues and you're like, hey, I'm going
14 to be late, I'm not sure, I'm waiting for the
15 tow truck, I'll be in after that, that's -- you
16 know, I totally get that. But then he was also
17 not -- so he wasn't at the facility, but he also
18 was not responding to any e-mails or phone calls
19 and he's got people who are waiting for
20 direction or waiting for answers, and they're
21 not being given the information that they need.
22 So if you're, in my example, waiting on a tow
23 truck, what's to stop you from responding to a
24 call or responding to an e-mail.

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1 Q. On how many occasions was
2 Mr. Reynolds late?

3 A. I can think of twice. I'm not
4 sure if there were others.

5 Q. Are you aware that Mr. Bonsky
6 didn't give Mr. Reynolds a set schedule?

7 MS. FICARO: Objection to form.
8 You can answer.

9 THE WITNESS: Mr. Reynolds was a
10 salaried individual, such as myself, and so I'll
11 speak to my schedule, because his would be
12 similar. No one tells me that I have to be in
13 the office at a certain point in time, but I
14 know what is going on. I know if there's
15 something -- okay. Well, I have orientation and
16 they're going to be there at 7:00 and so I need
17 to make sure that I'm there by 7:00 so that --
18 or before then, actually, so that I can be there
19 when they arrive. Mr. Reynolds' responsibility
20 was to the men who reported to him. And if he
21 is not going to be there when he's needed, then
22 he needs to make sure that he is accessible. So
23 he may not have been told, oh, you have to be
24 here at 6:47, but Mr. Reynolds would have known

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1 what was going on. Or if this is a Wednesday --
2 today's Thursday, so wait a minute. Yesterday I
3 know they were having problems with this, so I
4 need to make sure that I'm there at whatever
5 time so that if those problems start happening I
6 can address them. He's the maintenance manager,
7 so it's his responsibility to know what he needs
8 to be there for. So, yes, he would set his own
9 schedule, but to just willy-nilly kind of show
10 up whenever and not respond and take no
11 responsibility for the people who are waiting
12 for information -- if I did that, I know people
13 would have a problem with that.

14 BY MR. AUERBACH:

15 Q. Mr. Reynolds was overtime exempt;
16 was he not?

17 A. Yes, he was.

18 Q. You say that very quickly.
19 What makes you say that?

20 A. I'm the one who put his offer
21 letter together.

22 Q. And on what basis did you say he
23 was exempt from overtime?

24 A. Because he had people reporting

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1 to him, he had decisions that had to be made
2 about are we going to make changes, do we need
3 to order parts, how much do we need to spend, so
4 we had a budget that he was responsible for.
5 Yes, he's going to be speaking with Mr. Bonsky
6 and with Bryan Willert about these items as
7 well, but ultimately it's his responsibility to
8 go to them and say, all right. Here's what
9 changes we need to make. And because of all the
10 responsibilities that he had, he is overtime
11 exempt.

12 Q. That's because he's a manager?

13 A. He's a manager with a lot of
14 responsibility, yes.

15 Q. So his job was not to turn a
16 wrench; he was just to manage the people who
17 turn a wrench?

18 MS. FICARO: Objection to form.
19 You can answer.

20 THE WITNESS: I will put him in a
21 similar position to somebody that we have here
22 in St. Louis now. Although Mr. Reynolds would
23 have had even more responsibility than what the
24 gentleman here in St. Louis does, he is

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1 directing our maintenance guys. Hey, I need
2 this, I need that, but he is also right there
3 with our maintenance guys and he is assisting
4 because there are many times -- to be able to
5 know what needs to be done. Do we need to just
6 change out the screw or do we need to order 10
7 different parts in order to make the change.
8 You know what, our plant here, Para, is a
9 chemical that we use, Paradichlorobenzene is the
10 official name, and there are some issues when
11 you have heat and humidity. So it is this
12 gentleman's responsibility when we start having
13 some issues to say here's the changes that we
14 need to make in order to work around those
15 issues. And many times you're going to do that
16 because you're actually in there doing this and
17 Mr. Reynolds would have had this same
18 responsibility. He would have been in close
19 proximity, he would have been right there on the
20 equipment with the maintenance guy looking to
21 see what works, trying to figure things out.
22 And the only way that he's going to be able to
23 talk to a manufacturer or whoever it is about
24 parts is if he knows how everything is running,

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1 and the best way to do that is to get in there
2 and use your hands on that piece of equipment.
3 So he may not have been working on the equipment
4 -- or wait a minute. His responsibility did not
5 include working on the equipment as much as the
6 men who reported to him, but that would have
7 been critical to his success on that job.

8 BY MR. AUERBACH:

9 Q. Ms. Gillette, I'm not even going
10 to attempt to pronounce that chemical, but do
11 you have any firsthand knowledge as to whether
12 or not that chemical is at Douglassville?

13 A. I do not believe that it is.
14 That does not mean that Mr. Reynolds does not
15 need to know the equipment, because Para is not
16 the only chemical that is used here. And the
17 gentleman I spoke to here doesn't have to know
18 just the lines that used Para. He has to know
19 every line that we've got here. Mr. Reynolds
20 would have had the same responsibility.

21 Q. All right. You had said that you
22 were the one who put Mr. Reynolds' offer letter
23 together.

24 A. Yes.

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1 Q. Was it your understanding that
2 Mr. Reynolds had a base salary of \$85,000 a
3 year?

4 A. It's been a long time since I put
5 that offer letter together, but if that's what
6 you're telling me was in the letter, then I'll
7 say yes.

8 Q. And he had a potential bonus of
9 \$15,000 a year as well?

10 A. Potential, yes.

11 Q. And he had other benefits as
12 well, like a 401K?

13 A. As does everyone.

14 Q. Okay. What other benefits would
15 he have had?

16 A. Well, to go back to the one that
17 you've already mentioned -- what we say for
18 anybody who is offered a bonus is that it is
19 only after the successful completion of -- and
20 then it will say -- sometimes it says a certain
21 length of time, but it always talks about
22 successful completion. So it's not -- bonuses
23 are never guaranteed, without a doubt you're
24 going to get it. The 401K, you mentioned that.

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1 There are two criteria in order to be eligible
2 to participate. You have to have worked 480
3 hours. And once you've worked that, you are
4 able to contribute at the beginning of the next
5 quarter. So if Mr. Reynolds started in October,
6 he may not have been eligible until April. Just
7 depends on what the timing would have been, and
8 that would have been April the following year.
9 But it's not a required, and it's not anything
10 that automatically happened. So whether or not
11 Mr. Reynolds would have participated or
12 contributed was entirely up to him, and we did
13 not have any paperwork yet on that. We have
14 medical and vision benefits which go into effect
15 after 60 calendar days. I believe Mr. Reynolds
16 started in October, which means that his
17 insurance would have gone into effect sometime
18 in December. Usually ends up being almost two
19 months to the day. There is short-term
20 disability that goes into effect after
21 completing six months of employment, but that's
22 only if you're out for your own medical reason,
23 and that's it. Long-term disability would not
24 have gone into effect as of yet either. And the

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1 company-paid life insurance goes into effect --
2 his actually would have gone into effect on
3 January 1st, because you have to be eligible for
4 the medical insurance, then it goes into effect
5 the first of the month after. He was also
6 granted vacation. I believe that he was given
7 four weeks vacation, which is outside of the
8 norm. Normal is to start somebody out with two
9 or three weeks. Those are the -- oh, we of
10 course have holidays. I don't know if you
11 consider that necessarily benefits, but we've
12 got 10 paid holidays, so --

13 MR. AUERBACH: That is everything
14 I have for you.

15 * * * * *

16 (Whereupon, at 1:03 p.m., the
17 deposition of TAMMY GILLETTE
18 was concluded.)

19 * * * * *

20

21

22

23

24

TAMMY GILLETTE

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1 C E R T I F I C A T E

2

COMMONWEALTH OF PENNSYLVANIA:

3

COUNTY OF PHILADELPHIA:

4

5 I, Masheka Pettiford, a Notary Public within
6 and for the County and State aforesaid, do
7 hereby certify that the foregoing deposition of
8 TAMMY GILLETTE, was taken before me, pursuant to
9 notice, at the time and place indicated; that
10 said deponent was by me duly sworn to tell the
11 truth, the whole truth, and nothing but the
12 truth; that the testimony of said deponent was
13 correctly recorded in machine shorthand by me
14 and thereafter transcribed under my supervision
15 with computer-aided transcription; that the
16 deposition is a true record of the testimony
17 given by the witness; and that I am neither of
18 counsel nor kin to any party in said action, nor
19 interested in the outcome thereof.

20

21 WITNESS my hand and official of this 7th day
22 of September, 2021.

23

24

25

26 MASHEKA C. PETTIFORD
27 Notary Public

28

29

30

31

32

33

INSTRUCTIONS TO WITNESS

TAMMY GILLETTE

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1 Please read your deposition
2 over carefully and make any necessary
3 corrections. You should state the reason in the
4 appropriate space on the errata sheet for any
5 corrections that are made.

6 After doing so, please sign the
7 errata sheet and date it.

8 You are signing same subject to
9 the changes you have noted on the errata sheet,
10 which will be attached to your deposition.

11 It is imperative that you
12 return the original errata sheet to the deposing
13 attorney within thirty (30) days of receipt of
14 the deposition transcript by you. If you fail
15 to do so, the deposition transcript may be
16 deemed to be accurate and may be used in court.

17
18
19
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21
22
23
24

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2 E R R A T A

3 - - - - -

4 PAGE LINE CHANGE

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6 Reason for Change: _____

7 - - - - -

8 Reason for Change: _____

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10 Reason for Change: _____

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12 Reason for Change: _____

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14 Reason for Change: _____

15 - - - - -

16 Reason for Change: _____

17 - - - - -

18 Reason for Change: _____

19 - - - - -

20 Reason for Change: _____

21 - - - - -

22 Reason for Change: _____

23 - - - - -

24

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby
certify that I have read the foregoing pages, __
____ and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in form or substance, if
any, noted in the attached Errata Sheet.

DATE

SIGNATURE

Subscribed and sworn to before me this
____ day of _____,
202__.

My commission expires: _____

Notary Public

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